

08:51AM

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227  
(LJV)

September 26, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF BRIAN BURNS - DAY 1  
BEFORE THE HONORABLE LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY  
BY: JOSEPH M. TRIPI, ESQ.  
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And

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For the Defendant

PRESENT:

BRIAN A. BURNS, FBI Special Agent  
MARILYN K. HALLIDAY, HIS Special Agent  
KAREN A. CHAMPOUX, USA Paralegal

LAW CLERK:

REBECCA FABIAN IZZO, ESQ.

**COURT DEPUTY CLERK: COLLEEN M. DEMMA**

**COURT REPORTER: ANN MEISSNER SAWYER, FCRR, RPR, CRR**  
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\* \* \* \* \*

(Excerpt commenced at 2:54 p.m.)

(Jury seated at 2:54 p.m.)

**THE COURT:** The record will reflect that all our  
jurors are present. As I said, we'll go to 5 tonight, and  
talk a little bit at 5 about what the plan is for next week.

The government can call its next witness.

**MR. COOPER:** Thank you, Judge. The government calls  
FBI Special Agent Brian Burns.

**B R I A N B U R N S,** having been duly called and sworn,  
testified as follows:

**MR. COOPER:** May I inquire, Judge?

**THE COURT:** You may.

**DIRECT EXAMINATION BY MR. COOPER:**

Q. Good afternoon, Special Agent Burns. Can you introduce  
yourself to the jury?

A. Sure, my name is Brian Burns.

02:55PM 1 Q. Okay. Where did you grow up?

02:55PM 2 A. Buffalo, Tonawanda area.

02:55PM 3 Q. All right. And can you tell the jury a little bit about  
02:55PM 4 your educational background?

02:55PM 5 A. Yes, I graduated with a bachelor's in science and a

02:55PM 6 pharmacy degree, I was a practicing pharmacist, and I

02:55PM 7 received an MBA in health care administration. And then I

02:55PM 8 joined the FBI in October of 1998.

02:55PM 9 Q. Okay. So before joining the FBI in 1998, had you worked  
02:56PM 10 kind of a first career as a pharmacist?

02:56PM 11 A. Yes. I was a licensed pharmacist for three years.

02:56PM 12 Q. Okay. And at some point you switched from pharmacist to  
02:56PM 13 FBI special agent; is that right?

02:56PM 14 A. That's correct.

02:56PM 15 Q. I don't think we have time today for the story, so we're  
02:56PM 16 gonna move on. Do you get some training when you join the  
02:56PM 17 FBI?

02:56PM 18 A. I sure do.

02:56PM 19 Q. Okay. And I don't want to spend too much time there  
02:56PM 20 either, but 30,000-foot-view, what kind of training do you  
02:56PM 21 receive to become an FBI special agent?

02:56PM 22 A. You go to Quantico, Virginia. They teach you

02:56PM 23 constitutional law, how to effect arrests, effect arrests,

02:56PM 24 they teach you firearms, they teach you tactical training,

02:56PM 25 surveillance training, they teach you all the different

02:56PM 1 programs that the FBI has jurisdiction over, interviewing  
02:56PM 2 techniques, kind of, you come out with a lot more skills  
02:56PM 3 related to investigations than you ever had before.

02:56PM 4 Q. Okay. And in addition to that initial training at  
02:56PM 5 Quantico, do you kind of continue throughout your career to  
02:56PM 6 learn more from working with experienced agents?

02:56PM 7 A. Absolutely.

02:56PM 8 Q. Did that happen in your career?

02:57PM 9 A. Yes.

02:57PM 10 Q. Okay. After you finish at Quantico, where is your first  
02:57PM 11 posting?

02:57PM 12 A. Memphis, Tennessee. The FBI office in Memphis,  
02:57PM 13 Tennessee.

02:57PM 14 Q. What year did you start in Memphis, Tennessee?

02:57PM 15 A. 1999, February.

02:57PM 16 Q. And how long were you there for?

02:57PM 17 A. Approximately ten years, January of 2008.

02:57PM 18 Q. Okay. And during your time in the Memphis, Tennessee  
02:57PM 19 office with the FBI, did you start working in narcotics  
02:57PM 20 investigations?

02:57PM 21 A. Yeah, primarily when I was first assigned down there I  
02:57PM 22 worked narcotics investigations.

02:57PM 23 Q. Okay. And eventually did you transition into doing  
02:57PM 24 public corruption work?

02:57PM 25 A. Yeah, we worked a number of, it segued from narcotics

02:57PM 1 investigations into law enforcement corruption involving  
02:57PM 2 narcotics. So, basically police officers assisting drug  
02:57PM 3 dealers. And then I kind of moved on to some elected  
02:57PM 4 officials, so I predominantly worked public corruption in my  
02:57PM 5 career.

02:57PM 6 Q. Okay. And when you -- eventually after 2008, did you  
02:57PM 7 leave the Memphis office?

02:57PM 8 A. Yes.

02:57PM 9 Q. Where'd you come?

02:57PM 10 A. I came back to Buffalo, to my hometown.

02:58PM 11 Q. Have you been back in the Buffalo, New York field office  
02:58PM 12 from 2008 until the present?

02:58PM 13 A. Yes, I was in Niagara Falls, we had a small office there  
02:58PM 14 for a bit. And then I, once they closed that, I moved to the  
02:58PM 15 Buffalo main office here.

02:58PM 16 Q. What group are you in at the FBI?

02:58PM 17 A. The white collar crime, it's WC1 group.

02:58PM 18 Q. Does the white collar crime group work on predominantly  
02:58PM 19 public corruption cases?

02:58PM 20 A. Yeah, they have economic fraud, healthcare fraud, a  
02:58PM 21 number of other ones. But public corruption does fall under  
02:58PM 22 the white collar program.

02:58PM 23 Q. Got it. We're gonna jump right in now, enough about your  
02:58PM 24 background. I want to talk to you -- we heard yesterday from  
02:58PM 25 a person named Jason Pierini from Customs and Border Patrol

1 and about the defendant traveling with Paul Francoforte. Do  
2 you remember reviewing those records yesterday?

3 A. Yes, I do.

4 Q. Okay. And Paul Francoforte, we've heard quite a bit  
5 about that person, right?

6 A. We certainly have.

7 Q. What's that person's nickname?

8 A. It's Hot Dog.

9 Q. Okay. Is Hot Dog believed by law enforcement to be  
10 associated with Italian Organized Crime?

11 A. Yes. He is.

12 **MR. MacKAY:** Objection, cumulative.

13 **THE COURT:** Overruled.

14 **BY MR. COOPER:**

15 Q. Is Hot Dog's date of birth October 21st, 1948?

16 A. Yes, it is.

17 Q. Okay.

18 **MR. COOPER:** Ms. Champoux, can you pull up on the  
19 left Government Exhibit 393, and on the right Government  
20 Exhibit 3713A?

21 **BY MR. COOPER:**

22 Q. All right. Special Agent Burns, on the left side of your  
23 screen here, can you circle Hot Dog for us?

24 A. Paul Francoforte.

25 Q. On that same exhibit that's Government Exhibit 393, can

1 you circle the person who has a reputation in the law

2 enforcement community for being the former boss of Italian

3 Organized Crime in Buffalo?

4 A. Joseph Todaro Sr.

5 Q. Okay. Special Agent Burns, on the right side of the

6 screen, can you circle the names of the two people that were

7 crossing the border together on November 29th, 2012?

8 A. Mr. Francoforte and the defendant.

9 Q. Okay.

10 **MR. COOPER:** Ms. Champoux, can we zoom in on the  
11 names there on 3713A, just all the way across to the right?

12 That's perfect, thank you.

13 **BY MR. COOPER:**

14 Q. So on November 29th, 2012, the two people crossing the  
15 border together are P. Francoforte, with a date of birth of  
16 10/21/48, and Joseph Samuel Bongiovanni; is that correct?

17 A. That's correct.

18 Q. Okay.

19 **MR. COOPER:** Can you zoom out of that?

20 **BY MR. COOPER:**

21 Q. Do you know what they were doing crossing the border  
22 together?

23 A. I have no idea.

24 Q. Okay. Special Agent Burns, I want to talk about  
25 something else that happened in late November of 2012. When

1 did the New York State Police arrest Wayne Anderson with bulk  
2 marijuana and U.S. currency?

3 A. November 25th, 2012.

4 Q. Is that about four days before this border crossing?

5 A. Yes, it is.

6 Q. Based on your review of the entire C2-13-0026 case file,  
7 when did the defendant begin looking into Wayne Anderson's  
8 arrest?

9 A. Based on my review, 11/26/2012.

10 Q. Is that the very day after he was arrested?

11 A. The day after.

12 Q. Okay. When did the defendant write his first DEA report  
13 regarding the Anderson arrest?

14 A. November 28th, 2012.

15 Q. Is that the day before he travels to Canada with Hot Dog?

16 A. That's accurate.

17 Q. Okay. Has there been any indication during this trial  
18 that the marijuana seizure at Wayne Anderson's house was  
19 associated with Ron Serio?

20 A. Ron Serio testified that the -- that marijuana was his  
21 marijuana being delivered to Wayne Anderson's residence.

22 Q. Okay.

23 **MR. COOPER:** You can take those down, Ms. Champoux.

24 If we can pull up Government Exhibit 8M in evidence?  
25

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1                   **BY MR. COOPER:**

2       Q.   Do you see this, sir?

3       A.   Yes, did I do.

4       Q.   Is this the first report that's generated in file

5       C2-13-0026?

6       A.   Yes.   The first DEA-6.

7       Q.   Okay.   And does that same file number ultimately become

8       the defendant's reported investigation into Ron Serio?

9       A.   Yes, it does.

10      Q.   Okay.

11               **MR. COOPER:**   Ms. Champoux, can you take that down and

12      go to Government Exhibit 8A at page 347?

13               **BY MR. COOPER:**

14      Q.   Special Agent Burns, is this a subpoena return for

15      subscriber information from the defendant's case file

16      C2-13-0026?

17      A.   From the paper file, yes, it is.

18      Q.   Okay.   And you see the case number up here at the top?

19      A.   Yes, I do.

20      Q.   And whose subscriber information is the defendant causing

21      to be subpoenaed in this subpoena?

22      A.   Paul Francoforte, a/k/a Hot Dog.

23      Q.   Same guy he's crossing the border with?

24      A.   That's correct.

25      Q.   When did the defendant receive this subpoena response

03:02PM 1 providing Hot Dog's subscriber information?

03:02PM 2 A. March 21st, 2013.

03:02PM 3 Q. Okay. Is that about four months after he went to Canada

03:02PM 4 with him?

03:02PM 5 A. Yes, it is. Approximately.

03:02PM 6 Q. In any of the -- did you review that whole case file in

03:03PM 7 Government Exhibit 8A?

03:03PM 8 A. Yes, paper file, the shared drive, as well as the file

03:03PM 9 from the basement at 85 Adler, the defendant's residence.

03:03PM 10 Q. Okay. So let's take -- 8A is the paper file was

03:03PM 11 ultimately scanned and made into a PDF; is that right?

03:03PM 12 A. That's correct.

03:03PM 13 Q. Did you review everything in there?

03:03PM 14 A. Yes, I have.

03:03PM 15 Q. Government Exhibit 8, that's the electronic file that the

03:03PM 16 DEA maintained, right?

03:03PM 17 A. The shared drive, yes.

03:03PM 18 Q. Did you review everything in there?

03:03PM 19 A. Yes, I have.

03:03PM 20 Q. Okay. The file that the defendant had in his basement

03:03PM 21 after he retired, did you review everything in that?

03:03PM 22 A. Yeah, 100A-1, I think it was.

03:03PM 23 Q. Okay. Did the defendant ever mention Hot Dog in any of

03:03PM 24 his DEA-6 reports in this case?

03:03PM 25 A. Not in any of the DEA-6s.

03:03PM 1 Q. Did the defendant ever index Hot Dog or Paul Francoforte  
03:03PM 2 in any of the DEA-6 reports?

03:03PM 3 A. Not in any of the DEA-6 reports.

03:03PM 4 Q. By causing a subpoena to be issued for Hot Dog's  
03:03PM 5 subscriber information, would that cause Hot Dog's phone  
03:03PM 6 number to be entered into the DARTS deconfliction database?

03:03PM 7 A. Yes, it would.

03:03PM 8 Q. Have you reviewed Government Exhibit 358, the defendant's  
03:04PM 9 phone records from December 2013 until January 2019?

03:04PM 10 A. Yes, I have.

03:04PM 11 Q. Okay. Did the defendant have phone contact with Hot Dog?

03:04PM 12 A. Yes, he did.

03:04PM 13 Q. Okay. And has the jury already looked at those phone  
03:04PM 14 records and that contact?

03:04PM 15 A. Yes.

03:04PM 16 Q. Okay. How many times did the defendant have phone  
03:04PM 17 contact with Hot Dog?

03:04PM 18 A. Between the time, the frame you reference was 50 times.

03:04PM 19 Q. 50 times?

03:04PM 20 A. That's correct.

03:04PM 21 Q. Okay. What was the earliest phone call between the  
03:04PM 22 defendant and Hot Dog in the records that begin on November  
03:04PM 23 2013?

03:04PM 24 A. The records begin November 13th, the first call is  
03:04PM 25 December 2013.

03:04PM 1 Q. Okay. And you just said the records begin November 13th,  
03:04PM 2 did you mean November of 2013?

03:04PM 3 A. Oh, I'm sorry, right. It was 2013, yes.

03:04PM 4 Q. Okay. And the first phone call is in what month?

03:04PM 5 A. It's December. The very next month.

03:04PM 6 Q. About how long was that first call that shows up in the  
03:04PM 7 phone records that we have?

03:04PM 8 A. I believe it was ten minutes.

03:04PM 9 Q. Was the defendant's purported investigation into Ron  
03:04PM 10 Serio and his drug trafficking still open in December of  
03:05PM 11 2013?

03:05PM 12 A. Yes, it was.

03:05PM 13 Q. Before that ten minute December 2013 phone call between  
03:05PM 14 the defendant and Hot Dog, had Hot Dog's phone number already  
03:05PM 15 shown up in the defendant's purported Ron Serio  
03:05PM 16 investigation?

03:05PM 17 A. Repeat that question?

03:05PM 18 Q. Sure. So the subpoena return is from March 21st, 2013,  
03:05PM 19 right?

03:05PM 20 A. Yes.

03:05PM 21 Q. Is that nine months before the phone call that you see in  
03:05PM 22 December of 2013?

03:05PM 23 A. Yes, it is.

03:05PM 24 Q. Okay.

03:05PM 25 **MR. COOPER:** Ms. Champoux, can we please go to the

1 papers that were scanned from the box that was found in the  
2 defendant's basement in 2019, it's 100A.1, please. And please  
3 click on the PDF entitled 716-830-3226 hot sheet. You got it.  
4 Yep.

5 **BY MR. COOPER:**

6 Q. Special Agent Burns, what are we looking at here?

7 A. It's a hot sheet, the records of the phone calls from the  
8 subpoena returns.

9 Q. Okay. And is it in the name of an individual according  
10 to -- okay, this 3226 phone number, was that subscribed to an  
11 individual's name?

12 A. Yes.

13 Q. Whose name?

14 A. Christopher Baker.

15 Q. Okay. Was Baker identified as a member of Serio's  
16 drug-trafficking organization?

17 A. Yes, he was.

18 Q. Did Ron Serio testify that the phone number ending in  
19 3226 was actually his phone number, but subscribed in the  
20 name of his drug associate, Chris Baker?

21 A. Yes, that was the phones he was utilizing, one of the  
22 phones he was utilizing.

23 Q. Okay. Does Paul Francoforte, a/k/a Hot Dog, show up on  
24 this hot sheet from April 19th of 2013?

25 A. Is he in this?

03:06PM 1 **MR. COOPER:** You can scroll down to the next page,  
03:06PM 2 Ms. Champoux.

03:06PM 3 **THE WITNESS:** There it is, yeah. Paul Francoforte.

03:06PM 4 **BY MR. COOPER:**

03:06PM 5 Q. Can you just touch the screen so the jury can see where  
03:06PM 6 you're looking? Okay.

03:06PM 7 So you made a blue mark about halfway down page 2 of this  
03:06PM 8 document. In this hot sheet, so, the run date is April 19th,  
03:07PM 9 2013, and it looks like a timeframe from February 14th to  
03:07PM 10 March 6th, so give or take two and a half weeks, how many  
03:07PM 11 phone calls did Paul Francoforte have with Ron Serio?

03:07PM 12 A. 14.

03:07PM 13 Q. Okay. Does the hot sheet here list the same phone number  
03:07PM 14 for Hot Dog that the defendant had 50 phone calls with in his  
03:07PM 15 phone records?

03:07PM 16 A. Yes, it does.

03:07PM 17 Q. That's that 866-2687 phone number?

03:07PM 18 A. That's correct.

03:07PM 19 Q. Okay. Do those 50 phone calls between December 2013 and  
03:07PM 20 January 2019 include both incoming calls, so that's from  
03:07PM 21 Hot Dog to Joe Bongiovanni, and outgoing calls from Joe  
03:07PM 22 Bongiovanni to Hot Dog?

03:07PM 23 A. Yes, they do.

03:07PM 24 Q. Two-way street, sir?

03:07PM 25 A. Absolutely.

03:07PM 1 Q. Okay.

03:07PM 2 **MR. COOPER:** Ms. Champoux, can we please go to  
03:07PM 3 Government Exhibit 26D as in David at page 4, please?

03:07PM 4 **BY MR. COOPER:**

03:08PM 5 Q. Is this a DARTS deconfliction notification?

03:08PM 6 A. Yes, it is.

03:08PM 7 Q. Okay. Do you recognize this?

03:08PM 8 A. Yes, I do.

03:08PM 9 Q. Did you see this when Special Agent Casullo was sitting  
03:08PM 10 on the stand testifying?

03:08PM 11 A. Yes, I did.

03:08PM 12 Q. Okay. And is this on page 4 here --

03:08PM 13 **MR. COOPER:** If you could just scroll up a tiny bit,  
03:08PM 14 Ms. Champoux?

03:08PM 15 **BY MR. COOPER:**

03:08PM 16 Q. -- is this a DARTS deconfliction related to that same  
03:08PM 17 phone number, 866-2687?

03:08PM 18 A. Yes, number 4, Paul Francoforte.

03:08PM 19 Q. Okay. That's Hot Dog up there?

03:08PM 20 A. That's Hot Dog.

03:08PM 21 Q. Okay. And does this indicate here that his number showed  
03:08PM 22 up in a deconfliction as being in contact with Frank Bifulco?

03:08PM 23 A. Yes, it does.

03:08PM 24 Q. Does that guy have a nickname?

03:08PM 25 A. Yeah. That's Butchie --

03:08PM 1 Q. Okay?

03:08PM 2 A. -- Bifocal, a/k/a Butchie.

03:08PM 3 Q. Is Butchie Bifocal, did he have a reputation at this time

03:08PM 4 for being involved in Italian Organized Crime?

03:08PM 5 A. Absolutely.

03:08PM 6 Q. Okay. Did this DARTS deconfliction cause the defendant

03:08PM 7 to be notified that Special Agent Casullo ran the phone

03:09PM 8 number for Hot Dog on January 7th, of 2019?

03:09PM 9 A. Yes, it did.

03:09PM 10 Q. Is that how DARTS deconflictions work?

03:09PM 11 A. Yes, the line below.

03:09PM 12 Q. Okay. And so, you indicated the line below. Can you see

03:09PM 13 here, a DARTS deconfliction involving a case the defendant

03:09PM 14 worked on?

03:09PM 15 A. Yes.

03:09PM 16 Q. And is that the same Ron Serio investigation we've been

03:09PM 17 talking about?

03:09PM 18 A. Yes, it is.

03:09PM 19 Q. Okay. After Tony Casullo ran Hot Dog's number in DARTS

03:09PM 20 on January 7, 2019, did Joe Bongiovanni have a phone call

03:09PM 21 with Hot Dog?

03:09PM 22 A. Yes, he did.

03:09PM 23 Q. When was that?

03:09PM 24 A. Oh, it was, I believe, oh, was it the --

03:09PM 25 Q. Do you remember about how long after the DARTS

1 deconfliction was run the phone call happens?

2 A. Oh, a few days. A few days after.

3 Q. Okay.

4 **MR. COOPER:** Ms. Champoux, if we can go to Government  
5 Exhibit 358.

6 Yep, open that top PDF.

7 I'm sorry, ma'am, I didn't realize you were waiting  
8 for me.

9 And then scroll all the way to the bottom of the  
10 document.

11 **THE COURT:** This is in evidence?

12 **MR. COOPER:** Yes, Your Honor, it is.

13 And we're looking for January of 2019, Ms. Champoux,  
14 so go right towards the bottom.

15 Oh, I'm sorry, ma'am.

16 Will you take down the PDF and in the same  
17 Exhibit 358 it's the Volte spreadsheet here, thank you. And I  
18 think it's line 2155, or, 2511 maybe.

19 Keep scrolling. Looking for January 28th. Yep, here  
20 we go. Just expand those columns for me.

21 Ms. Champoux, can you just expand out the columns for  
22 me real quick?

23 **BY MR. COOPER:**

24 Q. Okay. And I'm looking at 2511 here, Special Agent Burns,  
25 can you see that row?

03:11PM 1 A. Yes, I can.

03:11PM 2 Q. Okay. Is that a January 28th, 2019 phone call?

03:11PM 3 A. Yes, it is.

03:11PM 4 Q. Is that a phone call between the defendant and Hot Dog?

03:11PM 5 A. Yes, it is.

03:11PM 6 Q. Is that about 7:03 p.m.?

03:11PM 7 A. Yes, it is.

03:11PM 8 Q. Is that about three weeks after the defendant was

03:11PM 9 notified that Special Agent Casullo was running Hot Dog's

03:11PM 10 number in DARTS?

03:11PM 11 A. Yeah, not three days, as I stated, three weeks.

03:11PM 12 **MR. COOPER:** Okay. You can take that exhibit down,

03:11PM 13 Ms. Champoux.

03:11PM 14 **BY MR. COOPER:**

03:11PM 15 Q. Special Agent Burns, between November of 2013 when the

03:11PM 16 defendant's phone records start until January 28th, 2015,

03:11PM 17 when the defendant formally closes the Ron Serio

03:11PM 18 investigation, how many phone contacts occur between the

03:11PM 19 defendant and Hot Dog?

03:11PM 20 A. 19.

03:11PM 21 Q. Okay.

03:11PM 22 **MR. COOPER:** Ms. Champoux, can you take that exhibit

03:11PM 23 down? I'm looking for 100B, thank you.

03:11PM 24 **BY MR. COOPER:**

03:12PM 25 Q. I'm going to hand you what's in evidence as Government

03:12PM 1 Exhibit 100E-2; do you recognize that, sir?

03:12PM 2 A. Yes, I do.

03:12PM 3 Q. Where was that recovered from?

03:12PM 4 A. Mr. Bongiovanni's residence.

03:12PM 5 Q. Okay. And what does it say inside?

03:12PM 6 A. You want the inside?

03:12PM 7 Q. Yep. Just the handwritten.

03:12PM 8 A. Just the handwriting portion? Love, Hot Dog and Lynn.

03:12PM 9 Honored to be your friends. Many years of happiness.

03:12PM 10 Q. Okay.

03:12PM 11 **MR. COOPER:** May I approach, Judge?

03:12PM 12 **THE COURT:** Sure.

03:12PM 13 **MR. COOPER:** Thank you. Thank you.

03:12PM 14 **BY MR. COOPER:**

03:12PM 15 Q. That wedding card, was that recovered from the same house  
03:12PM 16 where the defendant had a file in his basement with that  
03:12PM 17 guy's phone number listed in the subscriber returns?

03:12PM 18 A. Yes, it was.

03:12PM 19 Q. Okay. We're gonna switch gears for a second, I want to  
03:12PM 20 talk about a place called Gables bar. Are you familiar with  
03:13PM 21 that place?

03:13PM 22 A. Yes, I am.

03:13PM 23 Q. Okay. Did you hear testimony from Lou Selva and Ron  
03:13PM 24 Serio that they were tipped off that bartenders at Gables  
03:13PM 25 were the subject of an ongoing investigation by federal law

03:13PM 1 enforcement?

03:13PM 2 A. Yes, I was.

03:13PM 3 Q. Did you hear Special Agent Shane Nastoff testify that the  
03:13PM 4 defendant made a comment to him referencing that Anastasia  
03:13PM 5 said that Bongo screwed him over?

03:13PM 6 **MR. MacKAY:** Judge, I'm going to object at this point  
03:13PM 7 to the hearsay, that it's, you know, he's testifying  
03:13PM 8 essentially to what another witness said before already. And  
03:13PM 9 it's being offered for the truth of the matter, is that what  
03:13PM 10 was said here.

03:13PM 11 **MR. COOPER:** So, Judge, I would --

03:13PM 12 **THE COURT:** This is foundational, right?

03:13PM 13 **MR. COOPER:** It's foundational, we had the same  
03:13PM 14 obviously previously and --

03:13PM 15 **THE COURT:** Yeah, yeah. Overruled.

03:13PM 16 **BY MR. COOPER:**

03:13PM 17 Q. Did you hear Nastoff testify at this trial that the  
03:13PM 18 defendant made a comment to him referencing that Anthony  
03:13PM 19 Anastasia said Bongo screwed him over?

03:13PM 20 A. Yes, I did.

03:13PM 21 Q. Do you remember that?

03:13PM 22 A. Yes, I do.

03:13PM 23 Q. Okay. Where is Gables bar located at?

03:13PM 24 A. It's closed now, but it was on Hertel Avenue in North  
03:13PM 25 Buffalo. Close proximity to Colvin Avenue.

03:14PM 1 Q. Okay. Is Gables known to be frequented by any specific  
03:14PM 2 group of people?

03:14PM 3 A. During the course of the investigation you're referring  
03:14PM 4 to, it was members of IOC would meet there.

03:14PM 5 Q. Okay. Was that a bar known to be frequented by law  
03:14PM 6 enforcement?

03:14PM 7 A. Some law enforcement officers.

03:14PM 8 Q. All right. So let's talk about 2009.

03:14PM 9 In 2009, were you involved in an FBI investigation into  
03:14PM 10 Italian Organized Crime and public corruption?

03:14PM 11 A. Yes, I was.

03:14PM 12 Q. Okay. Was Gables a part of that investigation?

03:14PM 13 A. Yes, it was.

03:14PM 14 Q. Describe how.

03:14PM 15 A. It was the Safe Streets Task Force was looking at the  
03:14PM 16 drug angle. And essentially a couple of the bartenders,  
03:14PM 17 their long-time employees, Steven Brucato and Anthony  
03:14PM 18 Anastasia, were distributing cocaine out of the bar and in  
03:14PM 19 proximity to the bar, they both lived near there.

03:14PM 20 Additionally, we had evidence, and that's kind of where  
03:14PM 21 my part came in, they had evidence of certain law enforcement  
03:14PM 22 officers would frequent there, were utilizing cocaine.

03:14PM 23 Additionally, there was information there were -- some  
03:15PM 24 law enforcement information was being released, sensitive law  
03:15PM 25 enforcement information, so it was kind of a drug/public

1 corruption/organized crime case.

2 Q. Okay. Was Tom Doctor was one of the law enforcement

3 officers that came up as a subject of your investigation?

4 A. Yes, he was.

5 Q. Did the FBI ultimately arrest Anthony Anastasia --

6 A. Yes, they did.

7 Q. -- related --

8 A. I'm sorry.

9 **MR. COOPER:** Yes, ma'am. You're trying to rush. I  
10 know we're trying to --

11 **THE WITNESS:** My fault.

12 **BY MR. COOPER:**

13 Q. Wait for me to finish asking the question.

14 A. Yeah, my fault. I'm sorry.

15 Q. Did the FBI ultimately arrest Anthony Anastasia related  
16 to that investigation?

17 A. Yes, they did.

18 Q. Okay. Did he waive and agree to cooperate temporarily?

19 A. Yes, he did agree.

20 Q. Did he ultimately cooperate?

21 A. Not for very long, and he began distributing narcotics  
22 again.

23 Q. Okay. Did there come a time when you became aware of a  
24 DEA investigation occurring around the same time with your  
25 FBI investigation?

03:15PM 1 A. Yeah, it was kind of shortly thereafter Anastasia got on  
03:15PM 2 the DEA radar.

03:15PM 3 Q. Okay. I want to move on past that now.

03:16PM 4 Was Shane Nastoff the agent that was working that DEA  
03:16PM 5 investigation shortly after the FBI one ended?

03:16PM 6 A. Yes.

03:16PM 7 Q. Okay.

03:16PM 8 A. He was the case agent on it.

03:16PM 9 Q. Got it. Now I want to move on.

03:16PM 10 January 2019, were you working in the white collar unit  
03:16PM 11 of the FBI at that time?

03:16PM 12 A. Yes, I was.

03:16PM 13 Q. Did there come a time when you received a brief on the  
03:16PM 14 investigation into Joseph Bongiovanni?

03:16PM 15 A. Yes, I did.

03:16PM 16 Q. Okay. Who was at that briefing?

03:16PM 17 A. It was the -- my executive management. So my special  
03:16PM 18 agent in charge, assistant special agent in charge, my  
03:16PM 19 supervisor, couple other agents, HSI's senior management,  
03:16PM 20 along with Case Agent Curtis Ryan and Marilyn Halliday.

03:16PM 21 Additionally, the -- from the U.S. Attorney's Office was  
03:16PM 22 AUSA Tripi, along with the first -- the U.S. Attorney,  
03:16PM 23 J.P. Kennedy. The first assistant, Joseph Guerra. And I  
03:17PM 24 think there was a couple other ones.

03:17PM 25 Q. Was the day of the briefing the day that you first became

03:17PM 1 aware of the investigation into then Special Agent Joseph  
03:17PM 2 Bongiovanni?

03:17PM 3 A. Yes.

03:17PM 4 Q. Who made you aware of the investigation?

03:17PM 5 A. J.P. Kennedy contacted, we met, and that's how I became  
03:17PM 6 aware.

03:17PM 7 Q. Was he the U.S. Attorney back at that time?

03:17PM 8 A. Yes, he was.

03:17PM 9 Q. After that briefing, did you become the lead agent  
03:17PM 10 assigned from the FBI for that investigation?

03:17PM 11 A. Yes, I did.

03:17PM 12 Q. Do you know, you mentioned the name already actually, but  
03:17PM 13 did you work with Curtis Ryan?

03:17PM 14 A. Yes, I did.

03:17PM 15 Q. Okay. And was he from a different agency, Homeland  
03:17PM 16 Security?

03:17PM 17 A. Yes.

03:17PM 18 Q. Was he involved in the investigation at that time?

03:17PM 19 A. Yes, he and Marilyn -- Special Agent Marilyn Halliday  
03:17PM 20 were the HSI kind of front or lead investigators on it, is  
03:17PM 21 the accurate way to say it.

03:17PM 22 Q. Okay. And would it be fair to say based on your  
03:17PM 23 understanding when you joined the investigation, that Special  
03:17PM 24 Agent Halliday and Special Agent Ryan had been working it  
03:17PM 25 already for some time?

03:17PM 1 A. Yes, it was quite --

03:17PM 2 Q. By June of 2019, so about six months later, had you

03:18PM 3 become increasingly more involved in the investigation over

03:18PM 4 time?

03:18PM 5 A. Yes.

03:18PM 6 Q. From 2019 until we're sitting here right now, has the FBI

03:18PM 7 continued to work on this investigation?

03:18PM 8 A. Yes, extensively.

03:18PM 9 Q. Would you describe it as a joint investigation with

03:18PM 10 Homeland Security?

03:18PM 11 A. Definitely.

03:18PM 12 Q. And with the Office of the Inspector General?

03:18PM 13 A. That's correct.

03:18PM 14 Q. Are you familiar with different witnesses in the case?

03:18PM 15 A. Yes.

03:18PM 16 Q. Are you familiar with the evidence in the case?

03:18PM 17 A. Intimately.

03:18PM 18 Q. Were you present for the search warrant that was executed

03:18PM 19 at Joseph Bongiovanni's residence?

03:18PM 20 A. Yes, I was.

03:18PM 21 Q. Okay. Do you see Joe Bongiovanni in court?

03:18PM 22 A. Yes, I do.

03:18PM 23 Q. Can you identify him for the record?

03:18PM 24 A. He's at the table in between his attorneys wearing a red

03:18PM 25 tie and a blue shirt.

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**MR. COOPER:** For the record, Judge, the witness identified the defendant.

**THE COURT:** The record does reflect that.

**MR. COOPER:** Thank you.

**BY MR. COOPER:**

Q. Were you also present for the search of Mike Masecchia's residence on August 23rd, 2019?

A. Yes. I participated in the search and interviewed Mr. Masecchia briefly.

Q. Okay. And just remind me, at Masecchia's residence, did law enforcement recover guns?

A. Yes, there were a number of firearms that were recovered.

Q. Did they recover money?

A. Yeah, a significant sum of currency, U.S. currency was recovered.

Q. Was there some drugs recovered there as well?

A. Yes, drugs recovered as well.

Q. Did Masecchia ever agree to cooperate?

A. He did not.

Q. All right. We're going to switch gears again.

Have you reviewed Ron Serio's contacts stored in his phone in Government Exhibit 46?

A. Yes, I have.

Q. Have you reviewed the defendant's contacts report from his post-retirement phone ending in 2784, contained in

03:19PM 1 Government Exhibit 109F as in Frank?

03:19PM 2 A. Yes, I have.

03:19PM 3 Q. Have you reviewed Lou Selva's contact report contained in

03:19PM 4 Government Exhibit 208D as in David?

03:19PM 5 A. Yes, I have.

03:19PM 6 Q. Okay. We just discussed that you've reviewed --

03:19PM 7 withdrawn.

03:19PM 8 Have you reviewed Peter Gerace's contacts contained in

03:19PM 9 Government Exhibit 310AT?

03:19PM 10 A. Yes, I have.

03:19PM 11 Q. Have you reviewed Joe Bella's contacts contained in

03:19PM 12 Government Exhibit 312E?

03:19PM 13 A. Yes, I have.

03:19PM 14 Q. Okay. You mentioned that you reviewed the contacts from

03:20PM 15 the defendant's post retirement phone. Did you review the

03:20PM 16 contacts that were stored in his DEA phone ending in 0966?

03:20PM 17 A. No, we'd be unable to.

03:20PM 18 Q. Why?

03:20PM 19 A. That phone was wiped before it was turned in.

03:20PM 20 Q. I'm handing you now --

03:20PM 21 **MR. COOPER:** Or, actually, I'm just going ask

03:20PM 22 Ms. Champoux, for the witness only please, if you can pull up

03:20PM 23 Government Exhibit 367 for identification.

03:20PM 24 **BY MR. COOPER:**

03:20PM 25 Q. Do you recognize this, sir?

03:20PM 1 A. Yeah, it's a chart of cell phone that's overlapping  
03:20PM 2 contacts between the phones we just discussed.

03:20PM 3 Q. Okay. So I asked you about a whole bunch of different  
03:20PM 4 phone contacts exhibits and whether you reviewed them, and  
03:20PM 5 you said yes; is that right?

03:20PM 6 A. That's accurate.

03:20PM 7 Q. Was this chart created to show some of the common  
03:20PM 8 contacts that exist between all those people's phones?

03:20PM 9 A. Yeah, the overlapping contacts from their contacts in the  
03:20PM 10 phones.

03:20PM 11 Q. Does this fairly and accurately depict overlapping  
03:20PM 12 contacts contained in the phone extractions from phones  
03:20PM 13 belonging to the defendant, Lou Selva, Ron Serio, Peter  
03:21PM 14 Gerace, and Joe Bella?

03:21PM 15 A. Yes, it does.

03:21PM 16 Q. Okay.

03:21PM 17 **MR. COOPER:** I'd offer 367 into evidence, Judge.

03:21PM 18 **MR. MacKAY:** No objection.

03:21PM 19 **THE COURT:** Received without objection.

03:21PM 20 **(GOV Exhibit 367 was received in evidence.)**

03:21PM 21 **MR. COOPER:** Can we just publish this briefly,  
03:21PM 22 please?

03:21PM 23 **THE CLERK:** You're all set.

03:21PM 24 **MR. COOPER:** Thank you, ma'am.  
25

2 Q. All right. We're going to work our way through some of  
3 this, but just quickly to orient everybody, this left-hand  
4 section here, is this the different people stored as contacts  
5 in the phones?  
6 A. Yes, it is.  
7 Q. And these names along the top, are these the different  
8 phones that these names were found in?  
9 A. They were in their contacts in those phones, you just  
0 referenced the exhibits.  
1 Q. Okay. And then where there's Xs, does that indicate that  
2 a name on the left shows up in a phone on the right?  
3 A. That's correct.  
4 Q. Okay. Let's go to the bottom of the chart first. What's  
5 the name all the way at the bottom, on the left?  
6 A. Frank Tripi.  
7 Q. Okay. And does Frank Tripi's name show up in Ron Serio's  
8 phone?  
9 A. Ron Serio's, yes.  
0 Q. And just to be clear, is Frank Tripi the person that was  
1 the main target of Chris Clark's draft OCDETF report?  
2 A. Yes, he was.  
3 Q. Was that found in the defendant's basement?  
4 A. It was.  
5 Q. Okay. How about is Frank Tripi a contact in Peter

03:22PM 1 Gerace's phone?

03:22PM 2 A. Yes, he is.

03:22PM 3 Q. How about Joe Bella?

03:22PM 4 A. He is, as well.

03:22PM 5 Q. Okay. Did the defendant have contact with Frank Tripi in

03:22PM 6 his phone records?

03:22PM 7 A. Yes, he did.

03:22PM 8 Q. All right. Let's move on.

03:22PM 9 Do you see the name Paul Francoforte, Hot Dog, that we

03:22PM 10 talked about earlier?

03:22PM 11 A. Yes.

03:22PM 12 Q. Okay. Is he stored as a contact in Serio's phone?

03:22PM 13 A. Serio's, yes.

03:22PM 14 Q. Is he in the defendant's phone?

03:22PM 15 A. Yes, he is.

03:22PM 16 Q. Is he in Peter Gerace's phone?

03:22PM 17 A. Yes, he is.

03:22PM 18 Q. Do you see the line marked Frank Parisi?

03:22PM 19 A. Yes, I do.

03:22PM 20 Q. Okay. Is he stored in a contact in all the phones on

03:22PM 21 this chart?

03:22PM 22 A. Yes, he is.

03:22PM 23 Q. Is Lou Selva stored as a contact in the defendant's

03:22PM 24 phone?

03:22PM 25 A. In the defendant's, yes.

03:23PM 1 Q. Okay. And is Lou Selva stored as a contact in Ron  
03:23PM 2 Serio's phone?

03:23PM 3 A. Yes, he is.

03:23PM 4 Q. Okay.

03:23PM 5 **MR. COOPER:** Ms. Champoux, can you take that down  
03:23PM 6 please?

03:23PM 7 **BY MR. COOPER:**

03:23PM 8 Q. We're gonna shift gears again now.

03:23PM 9 A. Okay.

03:23PM 10 Q. Was there ultimately a search warrant conducted at  
03:23PM 11 Pharaoh's Gentlemen's Club?

03:23PM 12 A. Yes, there was in December of 2019.

03:23PM 13 Q. Okay. Have you heard testimony in the course of this  
03:23PM 14 trial about whether or not there were cameras at Pharaoh's at  
03:23PM 15 different times?

03:23PM 16 A. Yes, I have.

03:23PM 17 Q. Were you present for the search warrant in December of  
03:23PM 18 2019?

03:23PM 19 A. Yes. I conducted --

03:23PM 20 Q. Are you aware --

03:23PM 21 A. I'm sorry. I conducted interviews and was present for  
03:23PM 22 the search warrant.

03:23PM 23 Q. Are you aware of whether DVRs were recovered?

03:23PM 24 A. Yes.

03:23PM 25 Q. How many?

03:23PM 1 A. Three DVRs were recovered.

03:23PM 2 Q. Were they reviewed by the investigative team?

03:23PM 3 A. Yes, they were.

03:23PM 4 Q. Okay. Are you aware of how long the DVRs stored footage

03:23PM 5 for?

03:23PM 6 A. One of the DVRs stored footage for seven weeks, and the

03:23PM 7 other two was only for two weeks each.

03:23PM 8 Q. Okay. And at the time those DVRs were taken into law

03:23PM 9 enforcement custody, it was the year 2019, right?

03:24PM 10 A. In December of 2019.

03:24PM 11 Q. So almost the very end of the year in 2019?

03:24PM 12 A. That's correct.

03:24PM 13 Q. Okay. Based on what you told the jury about how long

03:24PM 14 those DVRs stored footage for, would it be fair to say that

03:24PM 15 they didn't contain any footage from 2013?

03:24PM 16 A. No. No footage.

03:24PM 17 Q. How about 2014?

03:24PM 18 A. No footage.

03:24PM 19 Q. How about 2015?

03:24PM 20 A. No footage.

03:24PM 21 Q. How about 2016?

03:24PM 22 A. No footage.

03:24PM 23 Q. How about 2017?

03:24PM 24 A. No footage.

03:24PM 25 Q. How about 2018?

03:24PM 1 A. No footage.

03:24PM 2 Q. Okay. We're going to move on again now, and we're gonna

03:24PM 3 talk about case number C2-13-0026. Have you heard that

03:24PM 4 number before?

03:24PM 5 A. Many times.

03:24PM 6 Q. Okay. Have you reviewed the official file?

03:24PM 7 A. Yes, I have.

03:24PM 8 Q. The paper file?

03:24PM 9 A. Yes, I have.

03:24PM 10 Q. The electronic file?

03:24PM 11 A. Yes, I have.

03:24PM 12 Q. Are you intimately familiar with the reports and contents

03:24PM 13 of that file?

03:24PM 14 A. Very much so.

03:24PM 15 Q. Did you review the electric -- the working file that was

03:24PM 16 found in the defendant's basement?

03:24PM 17 A. Yes, I did.

03:24PM 18 Q. Okay.

03:24PM 19 **MR. COOPER:** Ms. Champoux, if we can go to

03:24PM 20 Government Exhibit 8A very quickly, the full 8A.

03:24PM 21 **BY MR. COOPER:**

03:24PM 22 Q. 8A, is that the paper file that's scanned in?

03:25PM 23 A. That is.

03:25PM 24 **MR. COOPER:** Can you scroll down to page 3, please,

03:25PM 25 Ms. Champoux?

03:25PM

1

**BY MR. COOPER:**

03:25PM

2

Q. The third page of 8A, is this a, essentially a checklist

03:25PM

3

of the DEA-6s contained in that file?

03:25PM

4

A. Yes, it is.

03:25PM

5

Q. Okay. And are you aware of whether this page from

03:25PM

6

Government Exhibit 8A is marked, submarked as 8A-6?

03:25PM

7

A. It is 8A-6.

03:25PM

8

**MR. COOPER:** Okay. Ms. Champoux, you can take that

03:25PM

9

down, please?

03:25PM

10

**BY MR. COOPER:**

03:25PM

11

Q. And I'm going to hand you a big version of 8A-6 which is

03:25PM

12

already in evidence. Thank you.

03:25PM

13

**MR. COOPER:** Parker, do you need to see it?

03:25PM

14

**MR. MacKAY:** Oh, I can see it.

03:25PM

15

**MR. COOPER:** Okay, great.

03:25PM

16

**THE JURORS:** (Laughter.)

03:25PM

17

**MR. COOPER:** Can you put that up there?

03:25PM

18

Can we close the blinds?

03:25PM

19

**THE CLERK:** Yes, we can.

03:25PM

20

**MR. COOPER:** I'm sorry to be a pain.

03:26PM

21

**THE CLERK:** You're okay.

03:26PM

22

**BY MR. COOPER:**

03:26PM

23

Q. All right. We're going to run through some questions

03:26PM

24

about this now.

03:26PM

25

Is it your understanding that this DEA-6 summary

1 report -- or, I'm sorry, that this DEA-6 case status report  
2 lists all the 6s in the file?

3 A. It does.

4 Q. All right.

5 **MR. COOPER:** Ms. Champoux, on the screen for  
6 everybody, can you pull up what's in evidence as Government  
7 Exhibit 8M again?

8 **BY MR. COOPER:**

9 Q. Is this a DEA-6 summary report, Special Agent Burns?

10 A. Yes, it is.

11 Q. Is it the first 6 contained in the file?

12 A. It is.

13 Q. Okay. And if you look over there on the giant 8A-6, do  
14 you see a summary report reflected at the top of that  
15 checklist?

16 A. Yes, the 11/28/2012 date submitted.

17 Q. Okay. And is that the report that we're looking at on  
18 our screens here, Government Exhibit 8M?

19 A. Yes, it is.

20 Q. Okay. So I want to talk to you about the case file as it  
21 relates to investigation into Ron Serio, okay?

22 A. Certainly.

23 Q. So I'm going to focus most of my questions here around  
24 the investigation into Ron Serio.

25 Does the summary report in 8M mention Ron Serio or the

1 Serio drug-trafficking organization at all?

2 A. It does not.

3 Q. You mentioned that you've reviewed all the different

4 iterations of the file for C2-13-0026. Is there any

5 explanation at all in any of the material that you've

6 reviewed indicating what the defendant's basis was for

7 linking Wayne Anderson's arrest to the Ron Serio

8 investigation?

9 A. None whatsoever that I can identify.

10 Q. Now outside the confines of the file, did you hear Ron

11 Serio testify in this courtroom that he was expecting a

12 shipment of marijuana to be delivered to Wayne Anderson on

13 his behalf?

14 A. Yes, he testified to that.

15 Q. I'm going to hand you a marker, sir.

16 **MR. COOPER:** May I approach, Judge?

17 **THE COURT:** Sure.

18 **BY MR. COOPER:**

19 Q. So no mention of Serio in this summary report from

20 November 28, 2012?

21 A. No, sir.

22 Q. Can you cross it off for us?

23 Okay. Let's move on to the next one.

24 Is it your understanding that Wayne Anderson was caught

25 by the New York State Police receiving hundreds of pounds of

03:28PM 1 marijuana?

03:28PM 2 A. Yes, on November 25th, 2012, it was 269 pounds of  
03:28PM 3 marijuana I believe.

03:28PM 4 Q. Okay. And was there significant amount of currency  
03:28PM 5 seized from him as well?

03:28PM 6 A. Yeah, I believe it was \$27,000.

03:28PM 7 Q. Okay. Have you reviewed Wayne Anderson's criminal  
03:28PM 8 history?

03:28PM 9 A. Yes, I have.

03:28PM 10 Q. Okay. Was he ever convicted of any criminal offense  
03:28PM 11 related to the 2012 marijuana arrest?

03:28PM 12 A. He was not.

03:28PM 13 Q. I want to direct --

03:28PM 14 **MR. COOPER:** Ms. Champoux, if you can pull up 8A and  
03:28PM 15 go to page 72.

03:28PM 16 **BY MR. COOPER:**

03:28PM 17 Q. Who signed this document?

03:28PM 18 A. Joseph, the defendant. Joseph Bongiovanni.

03:28PM 19 Q. Okay. And what did the defendant, Joseph Bongiovanni,  
03:28PM 20 report about the resolution of Wayne Anderson's marijuana  
03:28PM 21 arrest in box 23?

03:28PM 22 A. The defendant disposition report, box 23, on January 4th,  
03:29PM 23 2015, Anderson pled in New York State Court and sentenced to  
03:29PM 24 36-month probation.

03:29PM 25 Q. Is the information that's written by the defendant in

1 box 23 of this defendant disposition report consistent with  
2 Wayne Anderson's criminal history?

3 A. No. Wayne Anderson's criminal history does not show that  
4 he was convicted nor -- he was not convicted, he can't be  
5 sentenced.

6 Q. Okay. Did Wayne Anderson testify in this courtroom about  
7 whether he ever cooperated in relation to his arrest?

8 A. Yes, he did.

9 Q. What did -- did he testify that he did not cooperate in  
10 relation to that arrest?

11 A. Yes, he testified not cooperate.

12 Q. Did Wayne Anderson testify that he was never convicted of  
13 anything related to that arrest?

14 A. Yes, he did.

15 Q. Okay.

16 **MR. COOPER:** Ms. Champoux, can you move to page 19  
17 now of Government Exhibit 8A?

18 **BY MR. COOPER:**

19 Q. Is this a DEA-6 summary report for acquisition of  
20 U.S. currency seized from Wayne Anderson?

21 A. Yes, it is.

22 Q. What's the date that this report was prepared?

23 A. January 17th, 2013.

24 Q. Was the defendant the author of it?

25 A. No. Clinton Calloway, TFO.

03:30PM 1 Q. Okay. So, this document from January 17th, 2013, is it  
03:30PM 2 documented up there on 8A-6, the case status checklist?

03:30PM 3 A. Let's see.

03:30PM 4 Q. From 1/17/2013?

03:30PM 5 A. 1/17/2013. I see it, yes.

03:30PM 6 Q. Is it up there?

03:30PM 7 A. Yeah, the cross file through me off.

03:30PM 8 Q. Okay. Tell you what, we're going to work from top to  
03:30PM 9 bottom straight down that document, okay? Can you cross that  
03:30PM 10 one off?

03:30PM 11 A. Yes.

03:30PM 12 Q. The one you just crossed off, that didn't mention Ron  
03:30PM 13 Serio at all, right?

03:30PM 14 A. It did not.

03:30PM 15 Q. We're going to move on now.

03:30PM 16 **MR. COOPER:** Ms. Champoux, if you can pull up  
03:30PM 17 Government Exhibit 8K?

03:30PM 18 **BY MR. COOPER:**

03:30PM 19 Q. Do you recognize 8K, Special Agent Burns?

03:30PM 20 A. Yes, I do.

03:30PM 21 Q. Is this a DEA-6 report of investigation?

03:30PM 22 A. Yes, it is.

03:30PM 23 Q. What's the date it was written?

03:30PM 24 A. Date prepared is February 7, 2013.

03:31PM 25 Q. Were you present for the testimony of New York State

1 Police Investigator O'Rourke?

2 A. Yes, I was.

3 Q. Did he testify that he was trying to set up a proffer  
4 interview with Wayne Anderson?

5 **MR. MacKAY:** Objection. Hearsay.

6 **THE COURT:** Yeah, sustained. And look it, I'll let  
7 you ask foundational questions with respect to testimony at  
8 the trial, but you're not going to have this witness repeat  
9 what other witnesses testified to.

10 **MR. COOPER:** Understood, Judge.

11 **BY MR. COOPER:**

12 Q. Does this report, Government Exhibit 8K, does this make  
13 reference to Investigator O'Rourke looking to set up a  
14 proffer interview with Wayne Anderson?

15 A. Yes, it does.

16 Q. Did O'Rourke testify in this courtroom in the chair  
17 you're sitting in right now?

18 A. Yes, he did.

19 Q. Does this DEA-6 make any mention at all of Ron Serio?

20 A. Does not.

21 Q. Okay. Can you go cross it off?

22 **MR. COOPER:** Ms. Champoux --

23 **BY MR. COOPER:**

24 Q. I'm sorry, Special Agent Burns, can you see 8A-6 from  
25 where you're sitting?

03:32PM 1 A. Yes, I can.

03:32PM 2 Q. The next entry down from February 22, 2013, does that  
03:32PM 3 reference an X file or cross file from C2-12-0090?

03:32PM 4 A. Yes, it does.

03:32PM 5 Q. Are you familiar with that report?

03:32PM 6 A. Yes, I am.

03:32PM 7 Q. Did the defendant draft it?

03:32PM 8 A. That one was drafted by Shane Nastoff.

03:32PM 9 Q. Okay. Did it have anything to do with the defendant's  
03:32PM 10 investigative activity into Ron Serio?

03:32PM 11 A. Not into Ron Serio, no.

03:32PM 12 Q. Okay. Was that Shane Nastoff's report about information  
03:32PM 13 he got from his CS?

03:32PM 14 A. That's correct.

03:32PM 15 Q. Did Shane Nastoff, based upon your review of the file,  
03:32PM 16 cause that information to be conveyed to the defendant?

03:32PM 17 A. Yes. The cross file was in both, that DEA-6 went into  
03:32PM 18 both files.

03:32PM 19 Q. Is there any DEA-6 or anything in the file at all  
03:32PM 20 indicating that the defendant ever followed up on that  
03:32PM 21 information to further his investigation in any way?

03:32PM 22 A. There is not.

03:32PM 23 Q. Would it be fair to say that the entry from February 22,  
03:32PM 24 2013, documents Shane Nastoff's investigative work and not  
03:33PM 25 anything that the defendant did?

03:33PM 1 A. That's accurate.

03:33PM 2 Q. Okay. Can you cross it off for us?

03:33PM 3 All right. I want to work through the next one down now.

03:33PM 4 **MR. COOPER:** Ms. Champoux, can you please pull up

03:33PM 5 Government Exhibit 8I?

03:33PM 6 **BY MR. COOPER:**

03:33PM 7 Q. Is this the initial debriefing of R.K.?

03:33PM 8 A. Yes, it is.

03:33PM 9 Q. Have you reviewed this document?

03:33PM 10 A. Yes, I have.

03:33PM 11 Q. Tell the jury who drafted it.

03:33PM 12 A. Joseph Bongiovanni drafted it.

03:33PM 13 Q. What was the date R.K. was interviewed?

03:33PM 14 A. 5 -- May 2nd, 2013.

03:33PM 15 Q. Okay. That's the date the report was prepared, right?

03:33PM 16 A. Right.

03:33PM 17 Q. What date was R.K. interviewed?

03:33PM 18 A. 4/30/2013.

03:33PM 19 Q. Got it. Who does the defendant list as other people

03:33PM 20 involved in the interview of R.K.?

03:33PM 21 A. Special Agent Shane Nastoff, and the G.S. Supervisor John

03:33PM 22 Flickinger.

03:33PM 23 Q. Does Government Exhibit 8I indicate that R.K. had access

03:33PM 24 to the leaders of the Ron Serio drug-trafficking

03:33PM 25 organization?

03:33PM 1 A. Yes, it does.

03:33PM 2 Q. Okay. Does 8I indicate that R.K. had access to other  
03:34PM 3 members or associates of the Serio organization?

03:34PM 4 A. Yes, it does.

03:34PM 5 Q. Is that report drafted on May 2nd, 2013, reflected on  
03:34PM 6 Government Exhibit 8A-6?

03:34PM 7 A. Yes, it is.

03:34PM 8 Q. All right. Can we cross that one off?

03:34PM 9 Special Agent Burns, after that May 2nd, 2013, report,  
03:34PM 10 the initial debriefing of R.K., what's the next entry on  
03:34PM 11 Government Exhibit 8A-6?

03:34PM 12 A. The June 18th, 2013 DEA-6 surveillance at 82 Sycamore  
03:34PM 13 Street.

03:34PM 14 Q. Okay. Other than the initial debriefing of R.K., is  
03:34PM 15 there any other DEA-6 anywhere in the file indicating that  
03:34PM 16 R.K. was ever debriefed again?

03:34PM 17 A. There is not.

03:34PM 18 Q. Okay. I mean, you looked through the whole file  
03:34PM 19 yourself, right?

03:34PM 20 A. Yes, I have.

03:34PM 21 Q. Is it just missing from the checklist?

03:34PM 22 A. No, it's not. There is not a DEA-6 in that file.

03:35PM 23 Q. Nothing?

03:35PM 24 A. Nothing.

03:35PM 25 Q. Let's move on to the June 18th, 2013, surveillance at

03:35PM 1 82 Sycamore Street. Ms. Champoux's got 8H up on the screen  
03:35PM 2 for us.

03:35PM 3 Special Agent Burns, who drafted this report?

03:35PM 4 A. The defendant, Joseph Bongiovanni.

03:35PM 5 Q. Who did he list as other officers?

03:35PM 6 A. Special Agent David Leary.

03:35PM 7 Q. Okay. And did you see Dave Leary come in this courtroom  
03:35PM 8 and sit in the chair you're in and testify?

03:35PM 9 A. Yes, I did.

03:35PM 10 Q. Was he the person who was actually conducting the  
03:35PM 11 surveillance based on what's written in Government  
03:35PM 12 Exhibit 8H?

03:35PM 13 A. Yes, he was.

03:35PM 14 Q. Okay. Does the DEA-6, 8H, does that indicate that the  
03:35PM 15 defendant did the surveillance?

03:35PM 16 A. No, it does not.

03:35PM 17 Q. Were you present when Special Agent Leary testified that  
03:35PM 18 the defendant told him to break off his surveillance and come  
03:35PM 19 back to 82 Sycamore, or come back to the DEA from 82 Sycamore  
03:35PM 20 Street?

03:35PM 21 A. Yes, I was.

03:35PM 22 **MR. MacKAY:** Objection. Hearsay.

03:35PM 23 **THE COURT:** Yeah, sustained. The jury will strike  
03:36PM 24 that one.

25

03:36PM

1

**BY MR. COOPER:**

03:36PM

2

Q. Okay. Let's get a little more into the warehouse that's

03:36PM

3

referenced here. Are you familiar with this warehouse at 82

03:36PM

4

Sycamore Street?

03:36PM

5

A. Yes, I am.

03:36PM

6

Q. Okay. Is that the -- that warehouse at 82 Sycamore

03:36PM

7

Street, did the FBI ultimately seize pounds of MDMA from that

03:36PM

8

warehouse?

03:36PM

9

A. The FBI did.

03:36PM

10

Q. Okay. And was that from a consented search --

03:36PM

11

A. Yes.

03:36PM

12

Q. -- granted by -- sorry. Was that a consent search where

03:36PM

13

consent was granted by Ron Serio?

03:36PM

14

A. Yes, it was.

03:36PM

15

Q. Okay. All right. We're going to stay on the topic of

03:36PM

16

that warehouse for a second.

03:36PM

17

To set the tone for the next line of questions, were you

03:36PM

18

present when Ron Serio testified that he and Rob Rine staged

03:36PM

19

a fake raid to rob T.S. of drugs?

03:37PM

20

A. Yes.

03:37PM

21

Q. Okay. Now remind the jury, Ron Serio, did he explain

03:37PM

22

where they got a fake search warrant from?

03:37PM

23

A. Yes, he did.

03:37PM

24

Q. Where?

03:37PM

25

A. From a detective. Rob Rine got it from a detective from

the Town of Tonawanda Police Department.

Q. Okay. Did the defendant have any partners at the DEA who worked for the Town of Tonawanda Police Department?

A. Yes, he did.

Q. Who?

A. Joseph Palmieri.

Q. Was he a detective?

A. He was.

Q. Is Palmieri in fact the same partner that looked up police reports related to the Wayne Anderson arrest the day after he was arrested?

A. Yes, he was.

Q. Did --

**MR. COOPER:** Can we go to Exhibit 8A, Ms. Champoux, and go ahead to page 77, please?

**BY MR. COOPER:**

Q. What are we looking at here, Special Agent Burns?

A. This is a Buffalo Police Department booking data sheet that was in the 8A file.

Q. Is this related to Wayne Anderson, November 25, 2012, arrest?

A. Yeah, for the arrest from New York State Police with the marijuana.

**MR. COOPER:** Ms. Champoux, if you can zoom in on the top-right corner of the document, those four lines?

03:37PM

1

**BY MR. COOPER:**

03:37PM

2

Q. What was the date that this was printed, sir?

03:38PM

3

A. November 26th, 2012.

03:38PM

4

Q. Okay. Is that the day after Anderson was arrested?

03:38PM

5

A. That's correct.

03:38PM

6

**MR. COOPER:** You can zoom out of that please,

03:38PM

7

Ms. Champoux.

03:38PM

8

**BY MR. COOPER:**

03:38PM

9

Q. Who's listed as the person that printed this?

03:38PM

10

A. Joseph Palmieri.

03:38PM

11

Q. Is that same Town of Tonawanda detective we've been

03:38PM

12

talking about?

03:38PM

13

A. That's correct.

03:38PM

14

**MR. COOPER:** You can zoom out of that, or take that

03:38PM

15

down, please, Ms. Champoux.

03:38PM

16

And can we please pull up 8H again?

03:38PM

17

Can you zoom in on the details section, please?

03:38PM

18

**BY MR. COOPER:**

03:38PM

19

Q. Special Agent Burns, do you have professional experience

03:38PM

20

conducting surveillance in criminal investigations?

03:38PM

21

A. Yes, quite a bit.

03:38PM

22

Q. Did you do it when you used to work narcotics cases?

03:39PM

23

A. All the time.

03:39PM

24

Q. Is surveillance generally a solo activity, or is that

03:39PM

25

something that agents generally do in groups?

03:39PM 1 A. It depends. It might be solo if you're just going by  
03:39PM 2 grab a tag or see if there's any cars there. But to do a  
03:39PM 3 full-blown surveillance, you need multiple vehicles, maybe  
03:39PM 4 air support, that's to do a real surveillance, a full  
03:39PM 5 surveillance you do need those assets.

03:39PM 6 Q. Okay. Would you -- would you expect in order to do a  
03:39PM 7 lengthy, full surveillance as you've described it, that you'd  
03:39PM 8 want to have a bunch of agents present for that?

03:39PM 9 A. Absolutely.

03:39PM 10 Q. Can that help follow vehicles if they show up and leave?

03:39PM 11 A. Certainly.

03:39PM 12 Q. Based on your surveillance, based on your experience, is  
03:39PM 13 surveillance more effective on a narcotics target when it  
03:39PM 14 involves a group of agents or officers?

03:39PM 15 A. Certainly. Absolutely.

03:39PM 16 Q. Is there always a risk associated with doing any  
03:39PM 17 surveillance of being made or identified?

03:39PM 18 A. Yes. I mean, the more vehicles you have out there, the  
03:39PM 19 less likely, but it's always a risk.

03:39PM 20 Q. Is that something you're trained to prevent from  
03:40PM 21 happening?

03:40PM 22 A. Yes, different techniques, set up cars in different  
03:40PM 23 parallel streets or air support, those are ways to kind of  
03:40PM 24 mitigate the chances of being caught or --

03:40PM 25 Q. Does using multiple agents and officers to conduct

surveillance assist in avoiding that detection?

**MR. MacKAY:** Objection. Cumulative at this point about surveillance.

**THE COURT:** Yeah, sustained.

**BY MR. COOPER:**

Q. Based upon your training and experience, does the risk of getting burned or made on surveillance prevent law enforcement from using surveillance as a technique altogether?

**MR. MacKAY:** Objection, same, Judge.

**MR. COOPER:** Judge --

**THE COURT:** Sustained. This is -- this is -- we've been through all this.

**MR. COOPER:** No, I don't -- Judge, I don't want to.

**THE COURT:** Come on up, come on up, come on up.

(Sidebar discussion held on the record.)

**MR. COOPER:** Judge, I just want to ask for, I guess, some latitude. I know that it's late in the afternoon, and I know that we lost a half a day yesterday.

**THE COURT:** No, no, no. I'm not -- I am not sustaining these objections because I want to get through this. As a matter of fact, you're wasting time up here at the bench. I just think we've been through this a number of times.

**MR. COOPER:** I don't know that I've asked -- I think

03:41PM 1 that the questions about whether the risk of getting burned  
03:41PM 2 prevents you from using surveillance as a technique, I don't  
03:41PM 3 think I've asked that question. It's in my script from  
03:41PM 4 Brian's direct the last trial, I don't think I've asked that  
03:41PM 5 of another witness. And so I understand if people want to  
03:41PM 6 keep it moving, so do I, but --

03:41PM 7 **THE COURT:** Who testified to this?

03:41PM 8 **MR. MacKAY:** I believe Leary himself, regarding  
03:41PM 9 surveillance experience.

03:41PM 10 **MR. SINGER:** Nastoff.

03:41PM 11 **MR. COOPER:** We spend more time with the objection  
03:41PM 12 than --

03:41PM 13 **THE COURT:** I'll give you a little latitude, I'll let  
03:41PM 14 you ask this question, but nothing else.

03:41PM 15 **MR. COOPER:** I'm trying to move it quickly.

03:41PM 16 **THE COURT:** I understand it. And again, that's  
03:41PM 17 not -- my goal here is not to move it quickly. My goal here  
03:41PM 18 is to give the defense and to give you enough latitude to  
03:42PM 19 prove the case and give the defendant a fair trial.

03:42PM 20 (Indecipherable.)

03:42PM 21 **COURT REPORTER:** I can't hear you.

03:42PM 22 **THE COURT:** If we go past Tuesday or Wednesday or  
03:42PM 23 Thursday, or 2027, my rulings are not going to be based on  
03:42PM 24 timing, they're going to be based on what I think the right  
03:42PM 25 ruling is.

1 And so when I think we are beating a horse into the  
2 ground that's been shot several times already, I'm going to  
3 sustain the objections.

4 I understand what you're saying. I think maybe  
5 you're right on this getting burned thing, so I will give you  
6 some latitude on that. But on stuff that we've had several  
7 DEA agents testify about, you're not going to go through  
8 again.

9 **MR. COOPER:** Understood, Judge. Thank you.

10 **THE COURT:** Okay.

11 (Sidebar discussion held on the record.)

12 **THE COURT:** So the objection to the last question is  
13 overruled.

14 **MR. COOPER:** Thank you, Judge.

15 **BY MR. COOPER:**

16 Q. Does the chance of getting burned stop you from using  
17 surveillance as a technique altogether?

18 A. No, in my experience, it does happen from time to time,  
19 but usually the narcotics traffickers continue to distribute  
20 narcotics, maybe they're a little more aware.

21 Q. Based on your experience doing surveillance, can seeing  
22 someone show up at a location that you're doing surveillance  
23 on and then leave with someone else, go away, can that be a  
24 situation where you can rapidly advance your investigation?

25 A. Absolutely.

03:43PM 1 Q. How?

03:43PM 2 A. Well, I mean, seeing somebody leave from a target's  
03:43PM 3 residence or business, it's suspected they possibly have some  
03:43PM 4 sort of narcotics on them. You can -- we use the term, like,  
03:43PM 5 "pick them off" on a traffic stop quite a ways from the  
03:43PM 6 location, and then if they have drugs on them, then now you  
03:43PM 7 have some leverage over 'em. And if they don't, then they  
03:43PM 8 will just believe it was just a traffic stop and they'll go  
03:43PM 9 on their way, and you haven't really burned up your case.

03:43PM 10 Q. You mentioned sitting on a drug dealer's residence. Can  
03:43PM 11 you use a surveillance technique to wait for customers to  
03:44PM 12 arrive to a drug dealer's residence?

03:44PM 13 A. Yes.

03:44PM 14 Q. Is that something that's done?

03:44PM 15 A. Yeah, sitting on a place.

03:44PM 16 Q. If you catch a customer leaving with drugs, can you flip  
03:44PM 17 'em?

03:44PM 18 A. Absolutely.

03:44PM 19 Q. What's it mean to flip 'em?

03:44PM 20 A. It just means if you catch them with narcotics, you now  
03:44PM 21 have leverage over them, and you can work up the -- work up  
03:44PM 22 the ladder so to speak.

03:44PM 23 Q. Is that how narcotics investigations work?

03:44PM 24 A. Yeah. That's kind of a hallmark of narcotics.

03:44PM 25 Q. If you're -- have you been at the location, that area

1 around 82 Sycamore Street, you're familiar with that  
2 location?

3 A. Very familiar.

4 Q. If you're standing outside of 82 Sycamore Street, can you  
5 see the DEA office building at the Electric Tower?

6 A. Yeah, it's a couple blocks from there.

7 Q. Okay.

8 **MR. COOPER:** You can take this down please,  
9 Ms. Champoux?

10 **BY MR. COOPER:**

11 Q. Other than this DEA-6, where Dave Leary did surveillance  
12 on the Ron Serio case, are there any other DEA-6s anywhere in  
13 the file about the defendant doing surveillance in the case?

14 A. There is no other DEA-6 about any surveillance.

15 Q. None at all?

16 A. None at all.

17 Q. Okay. Can you go cross that one off?

18 So we crossed off the one DEA-6 related to surveillance  
19 in the file. We have six entries left; is that right?

20 A. That's correct, yes.

21 Q. The first five entries that are left from the  
22 September 11th, 2013, till November 4th, 2014, are those all  
23 called case status?

24 A. Yes, they are.

25 Q. Okay. So if I used the term "substantive DEA-6" as a 6

documenting something like the surveillance at 82 Sycamore Street, will you understand that to be different from a DEA-6 report that's a quarterly update on the case called a case status?

A. Yes.

Q. So just so we have our terminology clear. After the DEA-6 of the work Dave Leary did in the case, surveilling 82 Sycamore Street, is there a single substantive DEA-6 for the next two years?

A. There is not.

Q. Is there another debriefing of R.K. that we're missing there?

A. There is not.

Q. How about a DEA-6 that says, hey, I can't find R.K. anywhere? Is that anywhere in the --

A. There is no DEA-6 to that effect.

Q. Any DEA-6s about trying to locate grow operations?

A. No DEA-6s about investigative steps taken towards that.

Q. Okay. Any DEA-6s that are documenting financial investigations?

**MR. MacKAY:** Objection. Asked and answered, based on the prior -- the witness's prior answer.

**THE COURT:** No, I'll allow this.

**THE WITNESS:** Sorry.

03:46PM

1 **BY MR. COOPER:**

03:46PM

2 Q. Any DEA-6s about financial investigation being conducted

03:46PM

3 or the results of it?

03:46PM

4 A. There's no DEA-6 that relates to that.

03:46PM

5 **MR. COOPER:** Ms. Champoux, can we pull up what's in

03:46PM

6 evidence as Government Exhibit 22I?

03:46PM

7 **BY MR. COOPER:**

03:47PM

8 Q. You see in the middle of this document the defendant

03:47PM

9 sends an email on May 23rd, 2013, saying thank you, Scott.

03:47PM

10 We're making strides on the street. We will report soon.

03:47PM

11 Do you see that?

03:47PM

12 A. I'm familiar with that.

03:47PM

13 Q. Okay. Are there any documents, any DEA-6s documenting

03:47PM

14 buys that occurred in this case?

03:47PM

15 A. No.

03:47PM

16 Q. To be clear, is there one document indicating that there

03:47PM

17 was an attempt made to get funding for a buy?

03:47PM

18 A. Yeah, there are documents to that effect.

03:47PM

19 Q. Okay. Any indication that that was followed up on in any

03:47PM

20 way?

03:47PM

21 A. Documents -- there's no indication that buys were

03:47PM

22 attempted.

03:47PM

23 Q. Okay. Any reports documenting attempted controlled phone

03:47PM

24 calls in any way?

03:47PM

25 A. No DEA-6s to that effect.

03:47PM 1 Q. Okay.

03:47PM 2 **MR. COOPER:** You can take that down please,  
03:47PM 3 Ms. Champoux. And if we can pull up Government Exhibit 8G as  
03:47PM 4 in George.

03:47PM 5 **BY MR. COOPER:**

03:47PM 6 Q. All right. Is this the September 11th, 2013, case status  
03:48PM 7 report, sir?

03:48PM 8 A. Yes, it is.

03:48PM 9 Q. Okay. Let's work through this one a little bit.

03:48PM 10 **MR. COOPER:** Can you zoom in on paragraph 2,  
03:48PM 11 Ms. Champoux?

03:48PM 12 **BY MR. COOPER:**

03:48PM 13 Q. Do you see a reference in this paragraph to several  
03:48PM 14 surveillances?

03:48PM 15 A. Yes, I do.

03:48PM 16 Q. Are there any DEA-6s in the file to support the fact that  
03:48PM 17 several surveillances were done?

03:48PM 18 A. The only DEA-6 related to surveillance is the one  
03:48PM 19 involving Special Agent Leary.

03:48PM 20 Q. Okay. Did you see some pictures in the electronic case  
03:48PM 21 file?

03:48PM 22 A. I saw three pictures.

03:48PM 23 Q. Three pictures?

03:48PM 24 A. Yes, three.

03:48PM 25 Q. Three total?

03:48PM 1 A. That's, yeah, as I recall, just the three.

03:48PM 2 Q. Okay. Earlier you described --

03:48PM 3 A. I mean, pictures, there's booking pictures, things like  
03:48PM 4 that.

03:48PM 5 Q. I'm talking about pictures, like photographs that look  
03:48PM 6 like a --

03:48PM 7 A. Possible surveillance?

03:48PM 8 Q. Sure, correct.

03:48PM 9 A. Yes.

03:48PM 10 Q. Okay. And you described earlier in an answer, the  
03:48PM 11 difference between kind of a quick solo activity to grab  
03:48PM 12 tags, I think you said, or a full-blown surveillance; is that  
03:48PM 13 right?

03:49PM 14 A. Yes, sir.

03:49PM 15 Q. The three -- three pictures that you saw in the  
03:49PM 16 electronic file, are those consistent in your experience with  
03:49PM 17 a full-blown surveillance?

03:49PM 18 **MR. MacKAY:** Objection, improper opinion.

03:49PM 19 **THE COURT:** Overruled.

03:49PM 20 **BY MR. COOPER:**

03:49PM 21 Q. How many surveillances have you done in your career?

03:49PM 22 A. Hundreds. Hundreds.

03:49PM 23 Q. Okay. Do pictures get taken on surveillance?

03:49PM 24 A. Yeah, absolutely.

03:49PM 25 Q. Have you gone to grab tags off cars before in your

03:49PM

1 career?

03:49PM

2 A. Yeah, and we take pictures of the license plates.

03:49PM

3 Q. Okay. And so with that foundation, is taking one single

03:49PM

4 picture of one single vehicle consistent in your experience

03:49PM

5 with a full surveillance at a location?

03:49PM

6 A. Not a full surveillance, no.

03:49PM

7 Q. Okay. And are there any 6s documenting several, meaning

03:49PM

8 multiple, surveillances?

03:49PM

9 A. No, there's not.

03:49PM

10 Q. Okay. You see the second sentence here that says agents

03:49PM

11 have utilized air surveillance with the ECSO chopper?

03:49PM

12 A. Yes.

03:49PM

13 Q. Did you -- do you understand that reference to ECSO

03:50PM

14 chopper to be a reference to the Erie County Sheriff's

03:50PM

15 Office?

03:50PM

16 A. Yes.

03:50PM

17 Q. Okay.

03:50PM

18 A. I do.

03:50PM

19 Q. And actually it says it right there, Erie County

03:50PM

20 Sheriff's Office chopper, right?

03:50PM

21 A. Yep.

03:50PM

22 Q. Okay. Did you see Captain Kevin Caffery come in here and

03:50PM

23 testify?

03:50PM

24 A. Yes, I did.

03:50PM

25 Q. Okay. Is it your understanding that he works for the --

1 worked for the Erie County Sheriff's Office?

2 A. Yeah, he was the lead captain.

3 Q. Are you familiar with the exhibits that have been

4 received into evidence related to the pilot's log from the

5 Erie County Sheriff's Office Helicopter?

6 A. Yes, I am.

7 Q. Based on your review of that record which is in evidence,

8 does it indicate that the helicopter was grounded for

9 maintenance on September 11th?

10 A. Yes, it does.

11 Q. Okay. And does it show all the flights before this

12 September 11th DEA-6?

13 A. Yes.

14 Q. That are contained in the log?

15 A. Yes, it does.

16 Q. Any reference to the Ron Serio drug-trafficking

17 organization?

18 A. There's not a reference to that.

19 Q. Any reference to Joseph Bongiovanni contained anywhere in

20 the log going up in the helicopter?

21 A. No, absolutely not.

22 Q. Okay. Does this report also mention waiting for GPS,

23 waiting for -- let's see, where is it -- waiting for approval

24 from the United States Attorney's Office to use GPS trackers?

25 Do you see that?

03:51PM 1 A. Yes, I do.

03:51PM 2 Q. Did you hear AUSA Lynch testify about that?

03:51PM 3 A. Yes, I did.

03:51PM 4 Q. And Special Agent Leary, he came in the courtroom and  
03:51PM 5 testified too, right?

03:51PM 6 A. He did.

03:51PM 7 Q. Okay. Would it be fair to say that there are some things  
03:51PM 8 mentioned in this case status report, some investigative  
03:51PM 9 steps that the defendant claims in this report to have taken  
03:51PM 10 that aren't supported by any of the prior DEA-6s that are in  
03:51PM 11 the file?

03:51PM 12 A. That's accurate.

03:52PM 13 Q. Okay. You can get up and cross that one off for me,  
03:52PM 14 please.

03:52PM 15 **MR. COOPER:** And, Ms. Champoux, if we can please pull  
03:52PM 16 up Government Exhibit -- let's see, actually, hold off for  
03:52PM 17 just one second. Yeah. It's 8F, ma'am.

03:52PM 18 **BY MR. COOPER:**

03:52PM 19 Q. All right. After the September 11th, 2013, case status  
03:52PM 20 report, what's the next case status report in the file?

03:52PM 21 A. 12/31/2013 case status.

03:52PM 22 Q. And in the three-and-a-half-month period between those  
03:52PM 23 two case status reports, is there any investigative activity  
03:52PM 24 documented in the file at all?

03:52PM 25 A. There's no DEA-6s to that effect.

03:52PM 1 Q. All right. Can you see okay? Or do you need to zoom in?

03:52PM 2 A. No, I can see.

03:52PM 3 Q. Okay, great. Is Remus Nowak mentioned in this

03:52PM 4 December 31, 2013, case status report?

03:52PM 5 A. Yes, he is.

03:52PM 6 Q. Okay. And is there any document anywhere in the file

03:53PM 7 that you reviewed that you were able to find explaining the

03:53PM 8 predication, the basis, for saying that Remus Nowak is

03:53PM 9 believed to be a member or involved with the Ron Serio

03:53PM 10 drug-trafficking organization?

03:53PM 11 A. None whatsoever.

03:53PM 12 Q. Okay. Up until this point, is it fair to say that the

03:53PM 13 main DTO being investigated is called the Serio DTO or Ron

03:53PM 14 Serio DTO; is that fair?

03:53PM 15 A. That's fair.

03:53PM 16 Q. Okay. Does it mention that there's an in-depth financial

03:53PM 17 analysis of the records of Duncan Motor Car Sales being

03:53PM 18 conducted?

03:53PM 19 A. Yes, it does.

03:53PM 20 Q. Did you look at Exhibit 22, Scott Deming's log of his

03:54PM 21 work on the case?

03:54PM 22 A. Yes, I did.

03:54PM 23 Q. Any mention of Duncan Motor Car Sales in there?

03:54PM 24 A. There is not.

03:54PM 25 Q. Any mention of Remus Nowak in there?

03:54PM 1 A. There is not.

03:54PM 2 Q. All right. Can we go over to 8A-6 and cross this one off  
03:54PM 3 from December 31st, 2013?

03:54PM 4 **MR. COOPER:** And let's pull up Government Exhibit 8E  
03:54PM 5 as in echo, please.

03:54PM 6 **BY MR. COOPER:**

03:54PM 7 Q. Is this the very next report in the file after 12/31/13?

03:54PM 8 A. It's the next DEA-6.

03:54PM 9 Q. Okay. What's the date of this report?

03:54PM 10 A. April 7th, 2014.

03:54PM 11 Q. Is this a substantive DEA-6 or another case status?

03:54PM 12 A. Just a case status.

03:54PM 13 Q. Okay.

03:54PM 14 **MR. COOPER:** Ms. Champoux, can you zoom in on just  
03:54PM 15 paragraph 2 here?

03:54PM 16 **BY MR. COOPER:**

03:54PM 17 Q. Any reference to Ron Serio there at all?

03:54PM 18 A. No, there's not.

03:55PM 19 Q. Is this paragraph entirely focused on Remus Nowak?

03:55PM 20 A. It is.

03:55PM 21 **MR. COOPER:** And if you zoom out of that, please,  
03:55PM 22 and zoom in on paragraph 3, briefly?

03:55PM 23 **BY MR. COOPER:**

03:55PM 24 Q. Is that basically repeating the same information from the  
03:55PM 25 report we just looked at a second ago in 8F?

03:55PM 1 A. It's very, very similar.

03:55PM 2 Q. Okay.

03:55PM 3 **MR. COOPER:** You can zoom out of that, please.

03:55PM 4 **BY MR. COOPER:**

03:55PM 5 Q. Does the case status report indicate that Nowak is a  
03:55PM 6 major money-laundering source for the Serio DTO?

03:55PM 7 A. Yes, it does.

03:55PM 8 Q. Are there any reports or any information contained in the  
03:55PM 9 file that explains the source of the statement that Remus  
03:55PM 10 Nowak is a major money-laundering source for the Serio DTO?

03:55PM 11 A. There are none.

03:55PM 12 Q. By this time, April 7th of 2014, had the defendant  
03:55PM 13 already closed out his confidential source in the case?

03:55PM 14 A. Yes, he had.

03:55PM 15 Q. Had that happened way back in July of 2013?

03:55PM 16 A. July 30th.

03:55PM 17 Q. Okay.

03:55PM 18 A. 2013.

03:55PM 19 Q. Are we still -- is the defendant still referring to the  
03:56PM 20 DTO that's being investigated as the Serio DTO in this  
03:56PM 21 report?

03:56PM 22 A. In this report, yes.

03:56PM 23 Q. Okay. See that?

03:56PM 24 A. Yep. There it is.

03:56PM 25 Q. Okay. You can go cross off the April 7th report, please.

03:56PM 1 All right. We're working our way through the file here.

03:56PM 2 Let's move to Government Exhibit 8D as in David. Is this

03:56PM 3 another case status report?

03:56PM 4 A. Yes, it is.

03:56PM 5 Q. So no DEA-6s in between April and July of 2014?

03:56PM 6 A. None.

03:56PM 7 Q. No surveillances?

03:56PM 8 A. No surveillances.

03:56PM 9 Q. No controlled calls?

03:56PM 10 A. No DEA-6s to that effect.

03:56PM 11 Q. Okay.

03:56PM 12 **MR. COOPER:** Can we zoom in on paragraph 2, please,

03:57PM 13 Ms. Champoux?

03:57PM 14 **BY MR. COOPER:**

03:57PM 15 Q. Can you read that sentence to the jury?

03:57PM 16 A. Agents continue to work with Amherst PD in an effort to

03:57PM 17 infiltrate the Remus Nowak DTO.

03:57PM 18 Q. Has the defendant now renamed the drug-trafficking

03:57PM 19 organization into the Remus Nowak DTO?

03:57PM 20 A. Yes. In this paragraph, he has.

03:57PM 21 Q. Okay. That's different than the Ron Serio DTO, right?

03:57PM 22 A. That's correct.

03:57PM 23 Q. Okay. And an earlier report that we just looked at, it

03:57PM 24 said Remus Nowak was working with Ron Serio, right?

03:57PM 25 A. That's correct.

1 Q. Laundering his money for him, right?

2 A. That's what it said.

3 Q. Okay. And was there any basis in the file that you

4 reviewed for how the Ron Serio DTO became the Remus Nowak

5 DTO?

6 A. None that I found.

7 Q. Okay.

8 **MR. COOPER:** You can zoom out of that, please,

9 Ms. Champoux.

10 **BY MR. COOPER:**

11 Q. Does it have the same case number?

12 A. Yeah, the C2-13-0026.

13 Q. Okay. I want to set the stage for the next question that

14 I'm going to ask you.

15 Did you hear Ron Serio testify about a time that he was

16 unloading marijuana at Mark Falzone's house and Mike

17 Masecchia was there, and Mike Masecchia left; do you remember

18 that?

19 A. Yes, I do.

20 Q. Okay. Does Remus Nowak have a residence near Mark

21 Falzone?

22 A. Yes, in close proximity.

23 Q. Okay.

24 A. Their backyards essentially abut, based on the review of

25 the area, or the maps I looked at.

03:58PM 1 Q. In paragraph 3 of Government Exhibit 8D is this, again,  
03:58PM 2 kind of a regurgitation of the data from the prior case  
03:58PM 3 status report?

03:58PM 4 A. Yes, it's very similar.

03:58PM 5 Q. Okay. All right. Let's cross off the July 7th report,  
03:58PM 6 and we'll work our way through the last case status.

03:58PM 7 **MR. COOPER:** Ms. Champoux, if you can pull up  
03:58PM 8 Government Exhibit 8C, please?

03:58PM 9 **BY MR. COOPER:**

03:58PM 10 Q. Same case file, right?

03:59PM 11 A. Yes, it is.

03:59PM 12 Q. What's that date this report is prepared?

03:59PM 13 A. November 4th, 2014.

03:59PM 14 Q. How's the investigation going at this time?

03:59PM 15 A. It's pending closure.

03:59PM 16 Q. Okay. And on November 4th of 2014, paragraph 3, does the  
03:59PM 17 defendant write this investigation is pending closure?

03:59PM 18 A. Yes, he does.

03:59PM 19 Q. Okay. And is Ron Serio indexed in this report?

03:59PM 20 A. Serio, yes, he's indexed in that report.

03:59PM 21 Q. Okay. Is Mike Masecchia indexed in the report?

03:59PM 22 A. He is not.

03:59PM 23 Q. How about Lou Selva?

03:59PM 24 A. He is not.

03:59PM 25 Q. How about Hot Dog?

03:59PM 1 A. He is not.

03:59PM 2 Q. Okay. To be clear, does this 8C, does this document any

03:59PM 3 investigative activity?

03:59PM 4 A. It does not.

03:59PM 5 Q. Okay. Can you cross it off of the list there for us?

03:59PM 6 **MR. COOPER:** And then finally, Ms. Champoux, if we

04:00PM 7 can pull up 8B as in Bravo.

04:00PM 8 **BY MR. COOPER:**

04:00PM 9 Q. Special Agent Burns, what's the date that this report's

04:00PM 10 prepared?

04:00PM 11 A. January 28th, 2015.

04:00PM 12 Q. About two months after that November case status that we

04:00PM 13 just looked at?

04:00PM 14 A. Yes, approximately.

04:00PM 15 Q. Okay. Is this formally closing the case?

04:00PM 16 A. Yes, it is now closed.

04:00PM 17 Q. Does Ron Serio get indexed in the case closure?

04:00PM 18 A. The only -- it's Wayne Anderson and Damien Abbate.

04:00PM 19 Q. So, no Ron Serio?

04:00PM 20 A. No Ron Serio.

04:00PM 21 Q. No Mike Masecchia?

04:00PM 22 A. No Mike Masecchia.

04:00PM 23 Q. No Lou Selva?

04:00PM 24 A. No Lou Selva.

04:00PM 25 Q. Okay. Special Agent Burns, other than the initial

04:00PM 1 debriefing of R.K., and Dave Leary's surveillance at 82

04:00PM 2 Sycamore Street, are there any 6s documenting a substantive

04:00PM 3 investigative activity that happened in this case file?

04:00PM 4 A. None at all.

04:00PM 5 Q. There were multiple other agents, based on your review of

04:01PM 6 the report, the initial debriefing of R.K., were there

04:01PM 7 multiple other agents present for that activity?

04:01PM 8 A. For the debrief?

04:01PM 9 Q. For the initial debriefing of R.K..

04:01PM 10 A. Yes, Special Agent DA -- Shane Nastoff and John

04:01PM 11 Flickinger.

04:01PM 12 Q. Okay. And then Dave Leary did the surveillance at

04:01PM 13 Sycamore, right?

04:01PM 14 A. That's correct.

04:01PM 15 Q. So were there any 6s documenting some investigative

04:01PM 16 action that the defendant did himself?

04:01PM 17 A. No substantive.

04:01PM 18 Q. In the file, was Lou Selva's phone number subpoenaed for

04:01PM 19 subscriber information?

04:01PM 20 A. Yes, it was.

04:01PM 21 Q. Okay. And how about Mike Masecchia's?

04:01PM 22 A. Several numbers, believe, for Masecchia were subpoenaed.

04:01PM 23 Q. Did that cause their numbers to be entered into the DARTS

04:02PM 24 deconfliction database?

04:02PM 25 A. Yes, it would have.

04:02PM 1 Q. Did they ever get mentioned in any DEA-6 report in this  
04:02PM 2 case file?

04:02PM 3 A. Not one.

04:02PM 4 Q. Okay. Can you cross off the case closure for me, please?

04:02PM 5 All right. So, we've worked our way through the DEA-6s  
04:02PM 6 contained in C2-13-0026; is that right?

04:02PM 7 A. That's accurate.

04:02PM 8 Q. All right.

04:02PM 9 **MR. COOPER:** Ms. Champoux, you can take down  
04:02PM 10 Exhibit 8B, please.

04:02PM 11 **BY MR. COOPER:**

04:02PM 12 Q. Special Agent Burns, during the course of trial prep in  
04:02PM 13 this case, did you work to develop some charts to summarize  
04:02PM 14 the voluminous evidence and testimony that the jury has heard  
04:02PM 15 over the last two months?

04:02PM 16 A. Yes, I did.

04:02PM 17 Q. Okay. Generally did you work with Homeland Security  
04:02PM 18 Investigations and the U.S. Attorney's Office to create kind  
04:02PM 19 of two different types of charts?

04:02PM 20 A. Yes, over many months.

04:02PM 21 **MR. COOPER:** Judge, may I approach and just take  
04:02PM 22 this off the --

04:02PM 23 **THE COURT:** Of course.

04:02PM 24 **MR. COOPER:** Thank you.

04:03PM 25 On the witness's screen only please, can I pull up

1 Government Exhibit 552?

2 **BY MR. COOPER:**

3 Q. Do you recognize what's on the screen in front of you?

4 A. Yes, I do.

5 Q. Is this one of the charts that you worked to create?

6 A. It is one of the charts.

7 Q. Okay. And generally, what does Government Exhibit 552  
8 summarize?

9 A. Generally, it summarizes the voluminous testimony and  
10 evidence that's been introduced at this trial, and it puts  
11 the connections between 58 individuals whose names have been  
12 mentioned in the course of this trial.

13 Q. Okay. Have there been a ton of names mentioned during  
14 the two months and change trial that we've been in?

15 A. A whole bunch.

16 Q. Okay. And does what you've created in Government  
17 Exhibit 552 show connections that exist between some of those  
18 different names that have come up based on testimony and  
19 evidence that's come in during this trial?

20 A. Yes.

21 Q. Did you keep an index that shows the either testimony or  
22 evidence that supports each connection that you've put on  
23 this summary chart?

24 A. Yes, a lengthy index.

25 Q. Did you update that lengthy index as the trial was going

04:04PM 1 on?

04:04PM 2 A. Yes, constantly.

04:04PM 3 Q. Keep track of the testimony?

04:04PM 4 A. Yes, I did.

04:04PM 5 Q. Did you keep track of the exhibits?

04:04PM 6 A. Yes, I did.

04:04PM 7 Q. Have you updated that index as the trial's gone on?

04:04PM 8 A. Yes, I have.

04:04PM 9 Q. Okay. How many connections total are documented in

04:04PM 10 Government Exhibit 552?

04:04PM 11 A. 179.

04:04PM 12 Q. Okay. And how many different people are -- or names are

04:04PM 13 reflected on that chart?

04:04PM 14 A. 58.

04:04PM 15 Q. Okay. You said 179 connections, should it actually be

04:04PM 16 180?

04:04PM 17 A. Yes.

04:04PM 18 Q. Okay. As the trial was going on, did you realize another

04:04PM 19 connection that existed, but the chart had already been

04:04PM 20 finalized at that point?

04:04PM 21 A. Yeah, just the other day.

04:04PM 22 Q. Did that happen this week?

04:04PM 23 A. Yes, it did.

04:04PM 24 Q. Okay.

04:04PM 25 A. We weren't going to print it again.

04:05PM 1 Q. Okay. To be clear, does the chart that you're looking at  
04:05PM 2 list every single name of every single person that's come up  
04:05PM 3 during the trial?

04:05PM 4 A. No, not at all.

04:05PM 5 Q. Okay. Was the first day of testimony in this trial taken  
04:05PM 6 on August 5, 2024?

04:05PM 7 A. Yes, it was.

04:05PM 8 Q. Is it currently September 26th of 2024?

04:05PM 9 A. Yes, it is.

04:05PM 10 Q. Okay. Approximately how many witnesses, including  
04:05PM 11 yourself and the transcript of R.K., have testified during  
04:05PM 12 this trial?

04:05PM 13 A. 62.

04:05PM 14 Q. Would it be fair to say that this case involves  
04:05PM 15 information about dozens and dozens of different individuals?

04:05PM 16 A. Absolutely.

04:05PM 17 Q. Did you create Government Exhibit 552 to fairly and  
04:05PM 18 accurately summarize the testimony and evidence from this  
04:05PM 19 trial as it relates to the existence of connections between  
04:05PM 20 certain individuals listed on your chart?

04:05PM 21 A. Yes.

04:06PM 22 **MR. COOPER:** Judge, if I could just have one moment?

04:06PM 23 **THE COURT:** Sure.

04:06PM 24 **MR. COOPER:** Okay. So I think to make everything  
04:06PM 25 faster, we'd like to come up real quick if that's okay with

04:06PM 1 Your Honor.

04:06PM 2 **THE COURT:** Sure, come on up.

04:06PM 3 (Sidebar discussion held on the record.)

04:06PM 4 **MR. COOPER:** Parker and I spoke during the break  
04:06PM 5 about trying to move things along today. And one of the ways  
04:06PM 6 that we talked about doing that is not having me go through  
04:06PM 7 the foundation of all 180, 179 connections on the chart. He  
04:06PM 8 agreed to that. It's a significant timesaving measure. So I  
04:06PM 9 wanted to make a record of that.

04:06PM 10 He's going to cross-examine on the chart, but I'm not  
04:06PM 11 going to do all of them as the foundation.

04:06PM 12 **THE COURT:** You're going to offer the chart now and  
04:06PM 13 you're not going to object?

04:06PM 14 **MR. MacKAY:** Yes, I'm not stipulating, but I'm not  
04:07PM 15 going to object.

04:07PM 16 **THE COURT:** Great. Perfect.

04:07PM 17 **MR. COOPER:** Thank you, Judge.

04:07PM 18 (End of sidebar discussion.)

04:07PM 19 **MR. COOPER:** So with that foundation, Judge, the  
04:07PM 20 government would offer Government Exhibit 552 into evidence,  
04:07PM 21 but I don't want to publish it yet, if that's okay.

04:07PM 22 **MR. MacKAY:** No objection to admission.

04:07PM 23 **THE COURT:** It's received without objection.

04:07PM 24 **MR. COOPER:** Thank you, Judge.

04:07PM 25 **(GOV Exhibit 552 was received in evidence.)**

04:07PM

1

**BY MR. COOPER:**

04:07PM

2

Q. Special Agent Burns, did you also create essentially a

04:07PM

3

duplicate of that exhibit, which has been given the name

04:07PM

4

Exhibit Number 553?

04:07PM

5

A. Yes, I did.

04:07PM

6

Q. Okay. And is it fair to say Government Exhibit 552 has

04:07PM

7

got a lot of lines on it?

04:07PM

8

A. A whole bunch.

04:07PM

9

Q. Okay. And did Government Exhibit 553 layer that over the

04:07PM

10

course of five or six different pages to make it a little

04:07PM

11

easier to take in?

04:07PM

12

A. Yes, it did.

04:07PM

13

Q. Okay. Other than the fact that it's layered over five or

04:07PM

14

six different pages, does Government Exhibit 553 contain the

04:07PM

15

same data that's in 552?

04:07PM

16

A. Yes, it does.

04:07PM

17

**MR. COOPER:** Okay. With that foundation, I'd offer

04:07PM

18

553 into evidence.

04:07PM

19

**MR. MacKAY:** No objection.

04:07PM

20

**THE COURT:** Received without objection.

04:08PM

21

**(GOV Exhibit 553 was received in evidence.)**

04:08PM

22

**MR. COOPER:** Thank you.

04:08PM

23

Ms. Champoux, if you can pull up Government

04:08PM

24

Exhibit 553 for the witness.

04:08PM

25

Okay. And, Ms. Demma, I'd ask that we publish that

1 for the jury.

2 **THE CLERK:** You're all set.

3 **MR. COOPER:** Thank you.

4 **BY MR. COOPER:**

5 Q. Can you see this, sir?

6 A. Yes, I can.

7 Q. Okay. Are the gray boxes all around this chart different  
8 names that have come up during the trial?

9 A. Yeah, those are the 58 I referenced earlier.

10 Q. Okay. And then are there some color-coded boxes  
11 starting -- let's start with the color red; do you see that  
12 one?

13 A. Yes.

14 Q. Who's in that box?

15 A. That's the defendant, Joseph Bongiovanni. It's the  
16 exhibit -- the photograph of him in the classic Buick  
17 automobile.

18 Q. Okay. Is that photo from Government Exhibit 109AB?

19 A. Yes, it is.

20 Q. All right. And then Lou Selva, is he listed in blue  
21 there?

22 A. Yes, he is.

23 Q. Ron Serio, is he in green?

24 A. Yes, he is.

25 Q. Does Mike Masecchia have a black-colored box?

04:08PM 1 A. Yes, he does.

04:08PM 2 Q. And does Peter Gerace have a yellow-colored box?

04:08PM 3 A. Yes, he does.

04:08PM 4 Q. Okay. Are there some lines coming out from the

04:08PM 5 defendant's picture there?

04:08PM 6 A. Yes, there is.

04:08PM 7 Q. What do those lines signify?

04:08PM 8 A. Connections between the defendant and these individuals.

04:09PM 9 Q. Now to be clear, you haven't followed the defendant

04:09PM 10 around for his whole life to know about that, right?

04:09PM 11 A. Yes.

04:09PM 12 Q. What'd you base those lines off of?

04:09PM 13 A. On the voluminous testimony and the voluminous exhibits

04:09PM 14 in this, that have come -- entered into evidence at this

04:09PM 15 trial.

04:09PM 16 Q. Okay. Excuse me.

04:09PM 17 Now we mentioned before, we didn't put every single name

04:09PM 18 that was mentioned during the trial on the chart; is that

04:09PM 19 correct?

04:09PM 20 A. No, I -- that would have been almost impossible.

04:09PM 21 Q. Okay. And did you pick a selection of the names that

04:09PM 22 came up during the course of the trial?

04:09PM 23 A. Yes, I did.

04:09PM 24 Q. And does this summarize the testimony and evidence with

04:09PM 25 respect to the selection of names are on the chart?

04:09PM 1 A. Yes, it does.

04:09PM 2 Q. Okay. Is there a line from the defendant to Lou Selva?

04:09PM 3 A. Yes, there is.

04:09PM 4 Q. Okay. And is there a line from the defendant to Peter

04:09PM 5 Gerace?

04:09PM 6 A. Yes, there is.

04:09PM 7 Q. How about the defendant and Mark Suppa?

04:09PM 8 A. Yes, there is.

04:09PM 9 Q. How about the defendant and John Suppa?

04:09PM 10 A. Yes, there is.

04:09PM 11 Q. How about the defendant and Frank Burkhardt?

04:09PM 12 A. Yes, there is.

04:10PM 13 Q. How about the defendant and Wayne Anderson?

04:10PM 14 A. Yes, there is.

04:10PM 15 Q. Do you see all those lines?

04:10PM 16 A. I sure do.

04:10PM 17 Q. Okay.

04:10PM 18 **MR. COOPER:** Ms. Champoux, if we can scroll on to the

04:10PM 19 next page.

04:10PM 20 **BY MR. COOPER:**

04:10PM 21 Q. We're on page 2 now. Does this list the connections

04:10PM 22 between Ron Serio in green and the other individuals on the

04:10PM 23 chart?

04:10PM 24 A. Yes, it does.

04:10PM 25 Q. Okay. I want to talk about some of the connections in

04:10PM 1 common here, okay?

04:10PM 2 A. Okay.

04:10PM 3 Q. Let's start with Joe Bella at the top.

04:10PM 4 Is Joe Bella a person that's listed as a connection in  
04:10PM 5 common between Ron Serio and the defendant?

04:10PM 6 A. Yes.

04:10PM 7 Q. How about Wayne Anderson?

04:10PM 8 A. Yes.

04:10PM 9 Q. How about Frank Burkhardt?

04:10PM 10 A. Yes.

04:10PM 11 Q. How about Bobby R.K.?

04:10PM 12 A. Yes.

04:10PM 13 Q. How about John Suppa?

04:10PM 14 A. Yes.

04:10PM 15 Q. And Mark Suppa?

04:10PM 16 A. Yes.

04:10PM 17 Q. What about Joe Tomasello?

04:10PM 18 A. Yes.

04:10PM 19 Q. Okay. Now, we're not going to go through every single  
04:10PM 20 one, try to keep it moving here.

04:10PM 21 **MR. COOPER:** Ms. Champoux, if you can scroll to the  
04:10PM 22 next page.

04:10PM 23 **BY MR. COOPER:**

04:10PM 24 Q. Okay. Do you see some black lines that just appeared on  
04:10PM 25 553?

25 | A. Yes, I do.

04:11PM 1 Q. Does he have a connection to the defendant?

04:11PM 2 A. He sure does.

04:11PM 3 Q. Okay. And does the chart reflect a connection between

04:11PM 4 Masecchia and Anthony Gerace?

04:11PM 5 A. Yes, it does.

04:11PM 6 Q. How about between Ron Serio and Anthony Gerace?

04:12PM 7 A. Yes, it does.

04:12PM 8 Q. I was gonna ask you about Peter, but I don't think we're

04:12PM 9 there yet.

04:12PM 10 **MR. COOPER:** So let's go to the next page,

04:12PM 11 Ms. Champoux.

04:12PM 12 **BY MR. COOPER:**

04:12PM 13 Q. Do the blue lines indicate Lou Selva's connections to

04:12PM 14 some of those same individuals?

04:12PM 15 A. Yes, it does.

04:12PM 16 Q. Okay. And do we see some of the same connections in

04:12PM 17 common that now include Lou Selva?

04:12PM 18 A. Yes, we do. In blue.

04:12PM 19 Q. Sal Volpe?

04:12PM 20 A. Yes.

04:12PM 21 Q. How about Mark Suppa?

04:12PM 22 A. Yes.

04:12PM 23 Q. How about John Suppa?

04:12PM 24 A. Yes.

04:12PM 25 **MR. COOPER:** Ms. Champoux, if we can go to the next

04:12PM 1 page, please?

04:12PM 2 **BY MR. COOPER:**

04:12PM 3 Q. All right. And the yellow lines that just popped up, are  
04:12PM 4 those Peter Gerace's connections on the chart?

04:12PM 5 A. Yes, they are.

04:12PM 6 Q. Okay. Are there a lot of connections that are on the  
04:12PM 7 left side of the chart that are connections based on the  
04:12PM 8 testimony and evidence in the trial, summarized in this chart  
04:12PM 9 between both Peter Gerace and the defendant?

04:12PM 10 A. On the left-hand side?

04:12PM 11 Q. On the left-hand side over here.

04:12PM 12 A. Yep. Yes.

04:12PM 13 Q. Do you see that?

04:12PM 14 A. Absolutely.

04:12PM 15 Q. Okay. Is Tom Doctor a connection in common?

04:13PM 16 A. Yes, it is.

04:13PM 17 Q. How about Anthony Gerace?

04:13PM 18 A. Yes, he is.

04:13PM 19 Q. Does everyone -- does Anthony Gerace have connections to  
04:13PM 20 the defendant, Peter, Ron, and Mike on this chart?

04:13PM 21 A. Yes, he does.

04:13PM 22 Q. Okay. How about Frank Tripi? Does Frank Tripi have a  
04:13PM 23 connection to Peter Gerace?

04:13PM 24 A. Peter Gerace, yes, he does.

04:13PM 25 Q. How about Hot Dog? Is Hot Dog on the chart?

04:13PM 1 A. Yes, he is.

04:13PM 2 Q. Haven't said his name yet. Do you see Hot Dog there?

04:13PM 3 A. I do see Hot Dog.

04:13PM 4 Q. Does Hot Dog have a connection to the defendant?

04:13PM 5 A. Yes, he does.

04:13PM 6 Q. And they went to Canada together, right?

04:13PM 7 A. That's accurate.

04:13PM 8 Q. How about a connection to Ron Serio?

04:13PM 9 A. Yes.

04:13PM 10 Q. Now, is there one -- is there one more page after this

04:14PM 11 one?

04:14PM 12 A. There is one more page.

04:14PM 13 Q. Okay. And does that add a whole bunch more lines on to

04:14PM 14 the chart?

04:14PM 15 A. Yes, it does.

04:14PM 16 Q. Is that last page here going to be gray-colored lines?

04:14PM 17 A. It will be.

04:14PM 18 Q. The gray-colored lines, what do they signify?

04:14PM 19 A. The connections between the different individuals.

04:14PM 20 Q. Okay.

04:14PM 21 A. Their names.

04:14PM 22 Q. So initially, you've color coded different people's

04:14PM 23 connections; is that right?

04:14PM 24 A. That's correct.

04:14PM 25 Q. Are the gray connections basically all the remaining

04:14PM 1 connections contained on the chart?

04:14PM 2 A. That's correct.

04:14PM 3 Q. Okay. And does that show how some of these gray box

04:14PM 4 people are connected to each other?

04:14PM 5 A. That's accurate.

04:14PM 6 Q. Okay.

04:14PM 7 **MR. COOPER:** And, Ms. Champoux, can we go to the

04:14PM 8 final page?

04:14PM 9 **BY MR. COOPER:**

04:14PM 10 Q. Gets pretty complex with all the lines on it, right?

04:14PM 11 A. It certainly does.

04:14PM 12 Q. Okay. Was your goal in creating this chart to try to

04:14PM 13 help take this out of the brain and onto a piece of paper?

04:14PM 14 A. Yeah, the voluminous testimony, as well as the voluminous

04:14PM 15 exhibits.

04:14PM 16 Q. Okay.

04:14PM 17 **MR. COOPER:** Ms. Champoux, you can take that down,

04:14PM 18 please.

04:14PM 19 **BY MR. COOPER:**

04:15PM 20 Q. All right. You told us before there were two different

04:15PM 21 types of charts. Was that one of them?

04:15PM 22 A. Yes, that was the connections one.

04:15PM 23 Q. Let's talk about the other one now.

04:15PM 24 **MR. COOPER:** Ms. Champoux, for the witness only, can

04:15PM 25 we bring up Government Exhibit 551?

2 Q. Can you see that on your screen?

3 A. Yes, I can.

4 Q. Okay. And is this one of the charts that you worked with

5 HSI and the U.S. Attorney's Office to generate?

6 A. Yes, extensively.

7 Q. Okay. What does Government Exhibit 551 summarize?

8 A. It summarizes some of the exhibits that came into

9 evidence at this trial as they relate to the charged -- the

0 counts in this indictment, and the specific incidents in this

1 indictment --

2 Q. Okay.

3 A. -- during this trial.

4 Q. Okay. So, counts are contained in an indictment, right?

5 A. They are.

6 Q. And the indictment is not evidence, right?

7 A. It is not evidence.

8 Q. Okay. Does the chart that you're looking at, 551,

9 summarize some of the exhibits in evidence and which counts

0 in the indictment they relate to?

1 A. Yes. It summarizes 66 of the exhibits which are some of

2 the exhibits in evidence, and the counts they relate to.

3 Q. Now, have there been hundreds and hundreds of exhibits

4 that have been actually introduced into evidence at this

5 trial?

04:16PM 1 A. Yes, there have been.

04:16PM 2 Q. Is that thousands or tens of thousands of pages?

04:16PM 3 A. Definitely.

04:16PM 4 Q. Are the 11 charged counts in -- are there 11 charged

04:16PM 5 counts in the indictment in this trial?

04:16PM 6 A. There is.

04:16PM 7 Q. Okay. Are the -- do the counts charged in the indictment

04:16PM 8 span a period of years, from 2005 until 2019?

04:16PM 9 A. They do.

04:16PM 10 Q. Okay. And do those counts arise out of a series of

04:16PM 11 different incidents or occurrences over that 14-year period?

04:16PM 12 A. They do.

04:16PM 13 Q. Do the counts charged in the indictment relate to various

04:16PM 14 different investigations?

04:16PM 15 A. They do.

04:16PM 16 Q. Okay. Have members of all those different various law

04:16PM 17 enforcement agencies come and testified at this trial?

04:16PM 18 A. Yes, they have.

04:16PM 19 Q. Does that include DEA agents?

04:16PM 20 A. It does.

04:16PM 21 Q. HSI agents?

04:16PM 22 A. It does.

04:16PM 23 Q. CBP officers?

04:17PM 24 A. It does.

04:17PM 25 Q. OIG agents?

04:17PM 1 A. Yes, it does.

04:17PM 2 Q. FBI agents like yourself?

04:17PM 3 A. Certainly.

04:17PM 4 Q. IRS agents?

04:17PM 5 A. Yes.

04:17PM 6 Q. U.S. Probation?

04:17PM 7 A. Yes.

04:17PM 8 Q. The U.S. Attorney's Office, like AUSAs and paralegals?

04:17PM 9 A. That's accurate.

04:17PM 10 Q. How about local police, like the Amherst Police?

04:17PM 11 A. Yes.

04:17PM 12 Q. And the Town of Tonawanda?

04:17PM 13 A. Yes.

04:17PM 14 Q. The Erie County Sheriff's Office?

04:17PM 15 A. Yes.

04:17PM 16 Q. And the New York State Police?

04:17PM 17 A. Yes.

04:17PM 18 Q. Okay. So lots of different agencies that have come up,

04:17PM 19 right?

04:17PM 20 A. That's correct.

04:17PM 21 Q. How many different exhibits are listed on Exhibit 551?

04:17PM 22 A. 66.

04:17PM 23 Q. Okay. That's not every exhibit that was entered into

04:17PM 24 evidence, right?

04:17PM 25 A. No, there's quite a bit more.

04:17PM 1 Q. Okay. Does 551 provide a table of contents, so to speak,  
04:17PM 2 for the exhibits as they relate to different counts charged  
04:17PM 3 in the indictment?

04:17PM 4 A. It does.

04:17PM 5 **MR. COOPER:** Judge, can I come over and speak to  
04:17PM 6 co-counsel quickly?

04:18PM 7 **THE COURT:** Of course.

04:18PM 8 **MR. COOPER:** I'm sorry, opposing counsel.

04:18PM 9 Judge, I've spoken with opposing counsel, and with  
04:18PM 10 that foundation now, I'm going to offer Exhibit 551 into  
04:18PM 11 evidence.

04:18PM 12 **MR. MacKAY:** No objection, Judge.

04:18PM 13 **THE COURT:** It's received without objection.

04:18PM 14 **MR. COOPER:** Thank you.

04:18PM 15 **(GOV Exhibit 551 was received in evidence.)**

04:18PM 16 **MR. COOPER:** And we can publish this one on the  
04:18PM 17 screen, but I'm going to get a version because the print is  
04:18PM 18 very small.

04:18PM 19 **BY MR. COOPER:**

04:18PM 20 Q. Special Agent Burns, can you see Government Exhibit 551?

04:18PM 21 A. Yes.

04:18PM 22 Q. All right. If you need to stay standing, you can stay  
04:18PM 23 standing. Just keep your voice up, okay?

04:18PM 24 A. It might be easier off --

04:18PM 25 Q. Okay. Easier off the teleprompter, you think?

04:19PM 1 A. Yeah.

04:19PM 2 Q. Got it.

04:19PM 3 A. See how it goes.

04:19PM 4 Q. That's fine, let's work off of that.

04:19PM 5 I want to get oriented to the chart first, and then we

04:19PM 6 can zoom in if we need to.

04:19PM 7 In the center is that same photo from Government Exhibit

04:19PM 8 109AB?

04:19PM 9 A. Yes, from the Buick.

04:19PM 10 Q. Okay. Are there 12 lines going out from that photograph

04:19PM 11 to 12 different gray boxes?

04:19PM 12 A. There is.

04:19PM 13 Q. Okay. And generally, what do those gray boxes signify?

04:19PM 14 A. They're kind of -- we'll use a book analogy. They're

04:19PM 15 kind of chapters in the trial or in the case, different

04:19PM 16 chapters.

04:19PM 17 Q. Are they referenced to different incidents that have come

04:19PM 18 up during the course of the trial?

04:19PM 19 A. Specific incidents, and then how they tied to the counts

04:19PM 20 in the indictment. Overt acts.

04:19PM 21 Q. Okay. Do you see lines between the photograph of the

04:19PM 22 defendant and the gray boxes?

04:19PM 23 A. Yes, I do.

04:19PM 24 Q. Okay. And are the various Count or Counts related to

04:19PM 25 each gray box listed in the line?

04:19PM 1 A. Right, to each of those incidents.

04:19PM 2 Q. Okay. All the way along the outside of the chart are  
04:19PM 3 there a number of different logos and names?

04:20PM 4 A. There is.

04:20PM 5 Q. Are those names representative of law enforcement or  
04:20PM 6 other government witnesses who testified at the trial?

04:20PM 7 A. They are.

04:20PM 8 Q. Okay. Are there lines connecting each of those  
04:20PM 9 individuals to the gray box, to one or more of the gray  
04:20PM 10 boxes?

04:20PM 11 A. Yes, there is.

04:20PM 12 Q. Okay. And primarily, what's listed on the lines between  
04:20PM 13 the witnesses and the gray boxes?

04:20PM 14 A. For the most part, it's some of the exhibits have been  
04:20PM 15 admitted at trial with the exception, there's two informants  
04:20PM 16 referenced on the left-hand side of the chart, and then on  
04:20PM 17 the top there's one line that doesn't have an exhibit related  
04:20PM 18 to it.

04:20PM 19 Q. Okay. Generally it's exhibits, and in two instances on  
04:20PM 20 the left here it's -- it's informant names; is that correct?

04:20PM 21 A. That's accurate.

04:20PM 22 Q. And for Pete Lepiane, there's nothing, right?

04:20PM 23 A. That's correct.

04:20PM 24 Q. Okay. Let's quickly try to work our way through this  
04:20PM 25 chart.

1                   **MR. COOPER:** Ms. Champoux, if you can just zoom in  
2 on the top third or just the center here for Lepiane to  
3 Kasprzyk, like that, yeah. Just down to the photograph of  
4 the defendant, thank you.

5                   **BY MR. COOPER:**

6 Q. All right. Can you see the grey box entitled Gerace '09  
7 probation search?

8 A. Yes, I can.

9 Q. Okay. Which Count or Counts of the indictment is that  
0 incident related to?

1 A. It relates to Count 2, and overt acts 19, 20, 21, 22, 36,  
2 as well as Count 5.

3 Q. Okay. Is Count 2 charging the conspiracy to defraud the  
4 United States involving the defendant and Peter Gerace?

5 A. That is Count 2.

6 Q. And is Count 2 charging the drug distribution conspiracy  
7 involving the defendant and Peter Gerace?

8 A. Yes, it does.

9                   **THE COURT:** I think you meant Count 5.

0                   **THE WITNESS:** Count 5.

1                   **MR. COOPER:** Oh, I apologize.

2                   **THE COURT:** You said Count 2 twice.

3                   **MR. COOPER:** I apologize, Judge.

4                   **THE COURT:** That's okay.

5                   **MR. COOPER:** Lack of sleep.

04:21PM

1

**BY MR. COOPER:**

04:21PM

2

Q. Count 5, is that the drug distribution between the

04:21PM

3

defendant and Peter Gerace?

04:21PM

4

A. That is. I didn't catch it either, it is Count 5.

04:21PM

5

Sorry.

04:21PM

6

Q. Okay. What law enforcement witnesses are listed on the

04:22PM

7

chart related to the Gerace '09 probation search?

04:22PM

8

A. New York -- or, Western District of New York Probation

04:22PM

9

Officer Peter Lepiane, FBI Special Agent Thomas Herbst, and

04:22PM

10

DEA Supervisor Dale Kasprzyk.

04:22PM

11

Q. Did each of those people testify at the trial?

04:22PM

12

A. They did.

04:22PM

13

Q. Okay. And which exhibits are listed there between the

04:22PM

14

gray box entitled Gerace '09 probation search and Special

04:22PM

15

Agent Herbst?

04:22PM

16

A. Exhibit 30A, which is a DEA-6, dated 11/6/2009. It's a

04:22PM

17

report related to the information offered by Gerace.

04:22PM

18

Q. Is that the same exhibit listed with respect to

04:22PM

19

G.S. Kasprzyk?

04:22PM

20

A. It is.

04:22PM

21

Q. Okay. We're going to move on, and I'm gonna try to work

04:22PM

22

my way around to the right.

04:22PM

23

**MR. COOPER:** So, Ms. Champoux, if you can zoom in

04:22PM

24

now, and get me this gray box all the way through to Anthony

04:22PM

25

Casullo? Maybe just the top right corner of the document,

1 starting from -- no, we've got to start from further to the  
2 left, ma'am.

3 Yeah, there you go. And then down. There you go.

4 That's perfect, thank you.

5 **BY MR. COOPER:**

6 Q. Can you see the next gray box to the right here, Special  
7 Agent Casullo investigation of Gerace?

8 A. Yes, I do.

9 Q. Okay. What counts are between that gray box and the  
10 defendant's photo?

11 A. That's Count 2, overt acts 25 and 33. Count 5 and  
12 Count 11.

13 Q. All right. We already covered Count 2 and 5. Let's talk  
14 about Count 11.

15 Is that the count charging false statements made to OIG  
16 on March 29th, 2019?

17 A. Yes, it is.

18 Q. Okay. What law enforcement witness is listed on the  
19 chart related to that gray box?

20 A. DEA Special Agent Anthony Casullo.

21 Q. Okay. And which exhibits are listed between the gray box  
22 entitled Casullo investigation of Gerace and the witness  
23 bubble for Special Agent Casullo?

24 A. Do them together. DARTS deconfliction notices,  
25 Exhibit 26B, 26C, 26D, 26E.

1 Additionally, there's Exhibit 99, which is the  
2 January 28th, 2019, memo drafted by the defendant. And  
3 again, that same exhibit that I just mentioned, the 30A from  
4 November 6th, 2009.

5 Q. Okay.

6 **MR. COOPER:** We can stay right in that zoom, you  
7 don't have to get out of it, Ms. Champoux.

8 **BY MR. COOPER:**

9 Q. What's the next grey box down?

10 A. That's Gerace memos authored by defendant and submitted  
11 to DEA, and defendant's subsequent statements to HSI Special  
12 Agent Curtis Ryan.

13 Q. Okay. And what Counts does that relate to on the line  
14 between that gray box and the defendant?

15 A. Count 2, overt acts 23, 27, 29, 30, 31, as well as  
16 Count 8, 9, and 10.

17 Q. Okay. We covered Count 2.

18 Is Count 8 charging obstruction of justice related to a  
19 November 1, 2018, DEA memo?

20 A. Yes.

21 Q. Is Count 9 charging obstruction of justice related to a  
22 December 10, 2018, DEA memo?

23 A. Yes, it is.

24 Q. Is Count 10 a charge of obstruction of justice related to  
25 a January 28th, 2019, DEA memo?

04:24PM 1 A. Yes.

04:24PM 2 Q. What law enforcement witness is listed on this chart  
04:24PM 3 related to that gray box?

04:24PM 4 A. Curtis Ryan, special agent, HSI.

04:24PM 5 Q. Okay. And I'm not going to have you read the whole list,  
04:25PM 6 but are there a list of exhibits in between that gray box and  
04:25PM 7 Curtis Ryan?

04:25PM 8 A. Yes, there is.

04:25PM 9 Q. Okay.

04:25PM 10 **MR. COOPER:** Ms. Champoux, if you can get out of  
04:25PM 11 this zoom here. And go to the -- capture this portion of the  
04:25PM 12 chart in the zoom, please?

04:25PM 13 **THE WITNESS:** That will work.

04:25PM 14 Sorry, I said that will work, I didn't mean to speak  
04:25PM 15 out loud. Sorry.

04:25PM 16 **BY MR. COOPER:**

04:25PM 17 Q. Okay. What's the next gray box down after the one we  
04:25PM 18 just reviewed?

04:25PM 19 A. Defendant statements to OIG.

04:25PM 20 Q. Okay. Special Agent Burns, which Count or Counts are  
04:25PM 21 listed on the chart next to that gray box?

04:25PM 22 A. That's Count 11.

04:25PM 23 Q. All right. And we -- Count 11, is that a count charging  
04:25PM 24 false statements made to OIG on March 29th, 2019?

04:26PM 25 A. It is.

04:26PM 1 Q. What law enforcement witness is listed on the chart

04:26PM 2 related to this gray box?

04:26PM 3 A. David Carpenter.

04:26PM 4 Q. Okay. And does it list some of the exhibits, a summary

04:26PM 5 of the exhibits that relate to that incident -- next to Dave

04:26PM 6 Carpenter's name?

04:26PM 7 A. Yes, it does.

04:26PM 8 Q. Okay. What's the next gray box down?

04:26PM 9 A. That's the DEA Gambino investigation, 2008.

04:26PM 10 Q. Okay. And is that on the chart, does that have Count 2

04:26PM 11 listed next to that prong?

04:26PM 12 A. Yes, it does.

04:26PM 13 Q. And who's the law enforcement witness listed to the right

04:26PM 14 there?

04:26PM 15 A. Christopher Wisniewski.

04:26PM 16 Q. Okay. Is he a DEA special agent that came and testified

04:26PM 17 in -- two months ago at the --

04:26PM 18 A. Yeah, very early in the trial, Special Agent Chris

04:26PM 19 Wisniewski testified.

04:26PM 20 Q. And the next one down, the next gray box, what do we have

04:26PM 21 listed there?

04:26PM 22 A. That's Agent Mozg's investigation of Bella.

04:26PM 23 Q. Okay. And what Count or Counts are linked to that on

04:26PM 24 Government Exhibit 551?

04:26PM 25 A. Count 1, overt act 52.

04:27PM 1 Q. Okay. And does it list a number of exhibits related to  
04:27PM 2 that gray box?

04:27PM 3 A. It does.

04:27PM 4 Q. Okay.

04:27PM 5 **MR. COOPER:** And, Ms. Champoux, if we can zoom out  
04:27PM 6 now? And now we're going to move on to the top left corner,  
04:27PM 7 and if you can zoom in to catch this portion for me. A little  
04:27PM 8 more to the right.

04:27PM 9 That's perfect, ma'am, thank you.

04:27PM 10 **BY MR. COOPER:**

04:27PM 11 Q. All right. Can you see -- oops. Starting now from the  
04:27PM 12 top and working left, do you see a gray box entitled  
04:27PM 13 Operation Past Due?

04:27PM 14 A. Yes, I do.

04:27PM 15 Q. Okay. And is that linked to a Count 1 on this chart?

04:27PM 16 A. Yeah, overt act 55.

04:27PM 17 Q. Okay. And who's the law enforcement witness coming off  
04:27PM 18 of that gray box?

04:27PM 19 A. DEA Task Force Officer Christopher Clark.

04:27PM 20 Q. Okay. And are there some exhibits listed with respect to  
04:27PM 21 Chris Clark and the gray box Operation Past Due?

04:27PM 22 A. Yeah, the Tripi OCDETF proposal, and the defendant's  
04:27PM 23 phone records.

04:27PM 24 Q. Tripi?

04:27PM 25 A. Tripi OCDETF proposal and -- and the defendant's phone

04:27PM 1 records.

04:27PM 2 Q. Okay. And the next one down, the next gray box, is that  
04:28PM 3 entitled CBP investigation into cross-border drug activity?

04:28PM 4 A. Yes, it is.

04:28PM 5 Q. Is that also linked to Count 1 on this chart?

04:28PM 6 A. Overt act 23, yes.

04:28PM 7 Q. Okay. And if you see the law enforcement witness, who's  
04:28PM 8 listed there for that gray box?

04:28PM 9 A. The law enforcement witness is Custom and Border Patrol  
04:28PM 10 Officer Larry Jay.

04:28PM 11 Q. Okay. And we talked, excuse me, we talked about this  
04:28PM 12 right at the beginning when we were laying some foundation.

04:28PM 13 Are there any exhibits listed for that line between Larry Jay  
04:28PM 14 and the gray box?

04:28PM 15 A. Not for that one, just the informant's name.

04:28PM 16 Q. Okay. So that's the name, J.D.?

04:28PM 17 A. Yeah, that's correct.

04:28PM 18 Q. Was J.D. a witness who testified at this trial as well?

04:28PM 19 A. Yes, he was.

04:28PM 20 Q. Okay. And we're going to move down to the next gray box.  
04:28PM 21 What do you have there?

04:28PM 22 A. Town of Ton -- TTPD, referring to Town of Tonawanda  
04:28PM 23 Police Department, referral of C.S. to DEA.

04:28PM 24 Q. Okay. And we've seen Count 1 a number of times. Just to  
04:28PM 25 be clear, is Count 1 the count charging conspiracy to defraud

04:29PM 1 the United States involving the defendant, Mike Masecchia,  
04:29PM 2 and others?  
04:29PM 3 A. Yes, it is.  
04:29PM 4 Q. Okay.  
04:29PM 5 A. Count 3 and 4 on that one, as well.  
04:29PM 6 Q. Yep. Who's the law enforcement that's listed with  
04:29PM 7 respect to the TTPD referral of C.S. to DEA?  
04:29PM 8 A. It was Detective Thomas Oswald from the Town of Tonawanda  
04:29PM 9 Police Department.  
04:29PM 10 Q. Okay. And what's listed between that gray box and the  
04:29PM 11 witness bubble for Intelligence Agent Tom Oswald, or  
04:29PM 12 Detective Tom Oswald?  
04:29PM 13 A. C.C.  
04:29PM 14 Q. Okay. Is that another name of an informant?  
04:29PM 15 A. It was.  
04:29PM 16 Q. Okay. What's the next gray box down after that?  
04:29PM 17 A. TFO -- so, Task Force Officer Higgins investigation into  
04:29PM 18 Masecchia's Southern Tier grow.  
04:29PM 19 Q. Okay. And what Count or Counts is that linked to on the  
04:29PM 20 Government Exhibit 551?  
04:29PM 21 A. In Count 1, manners and means, 4 and 5, Count 3 and  
04:30PM 22 Count 4.  
04:30PM 23 Q. Okay. Who's the law enforcement witness that's listed  
04:30PM 24 for that gray box?  
04:30PM 25 A. It's -- what is his title, he's with -- he's a DEA task

04:30PM 1 force officer, I just don't recall his -- it was detective,  
04:30PM 2 but I don't know what his highest rank is.

04:30PM 3 Q. Okay. We'll call him Cory Higgins, how about that?

04:30PM 4 A. That works.

04:30PM 5 Q. Okay. And are there some exhibits listed with respect to  
04:30PM 6 the line between Cory Higgins--

04:30PM 7 A. Yes.

04:30PM 8 Q. -- and the gray box for his investigation?

04:30PM 9 A. There is.

04:30PM 10 Q. Okay. And just to focus here for a second, do some of  
04:30PM 11 those, is one of those Exhibits 8A?

04:30PM 12 A. It is.

04:30PM 13 Q. Is that, like, really long a number of pages, that  
04:30PM 14 document?

04:30PM 15 A. 8A I believe is, without looking at it exactly, is over  
04:30PM 16 400 pages, but I'd have to see it. It's hundreds of pages.

04:30PM 17 Q. Okay. And was part of the summary that you created here  
04:30PM 18 to make reference to specific page numbers inside of  
04:30PM 19 Government Exhibit 8A?

04:30PM 20 A. Right. So in 8A, it's going through it, if you pull up  
04:30PM 21 those page numbers 134, 135, 155, they're contained in 8A.

04:31PM 22 Q. Got it. Let's move on to the next gray box down. What's  
04:31PM 23 that gray box entitled?

04:31PM 24 A. The Wayne Anderson arrest.

04:31PM 25 Q. Okay. And what Count or Counts are on the line between

1 the defendant's photo and that gray box?

2 A. Count 1, overt acts 24, 25, 50, Count 3, Count 4,  
3 Count 6, and Count 7.

4 Q. Okay. And who's the law enforcement witness that's  
5 listed with respect to that gray box?

6 A. New York State Police Investigator Mike O'Rourke.

7 Q. Okay. And are there some exhibits listed with respect to  
8 that Wayne Anderson arrest gray box?

9 A. Yes, there is.

10 Q. Okay.

11 **MR. COOPER:** And, Ms. Champoux, if you can zoom out  
12 of that, please?

13 **BY MR. COOPER:**

14 Q. Now, we're going to work our way to the bottom of the  
15 chart, but first --

16 **MR. COOPER:** Let's zoom in on this first here. In  
17 the center, thank you.

18 **BY MR. COOPER:**

19 Q. That gray box at the bottom is called Serio  
20 investigation; is that right?

21 A. That is correct.

22 Q. And does this list all the counts related to that gray  
23 box on Government Exhibit 551?

24 A. Those all relate to the Serio investigation box.

25 Q. Okay.

04:32PM 1 **MR. COOPER:** Ms. Champoux, you can zoom out of that.

04:32PM 2 And let's just zoom in maybe on half of it for the left first,

04:32PM 3 yep. That's perfect, thank you, ma'am.

04:32PM 4 **BY MR. COOPER:**

04:32PM 5 Q. Let's work our way quickly from left to right here, on

04:32PM 6 the far left of this Serio investigation gray box, who are

04:32PM 7 the two law enforcement officers listed?

04:32PM 8 A. It's Lieutenant JoAnn DiNoto, as well as Detective Robert

04:32PM 9 Cottrell. JoAnn DiNoto was with the Amherst Police

04:32PM 10 Department, and Bob Cottrell was a task force officer with

04:32PM 11 the DEA Safe Streets Task Force, or FBI Safe Streets Task

04:32PM 12 Force.

04:32PM 13 Q. Okay. And does it list a number of exhibits between the

04:32PM 14 gray box entitled Serio investigation and JoAnn DiNoto and

04:32PM 15 Bob Cottrell?

04:32PM 16 A. It does.

04:32PM 17 Q. Okay. And let's move on now to the next line over, who's

04:32PM 18 the next law enforcement officer listed?

04:33PM 19 A. Now inspector, DEA Inspector Shane Nastoff.

04:33PM 20 Q. Okay. And are there a number of exhibits listed with

04:33PM 21 respect to the line between the gray box of Serio

04:33PM 22 investigation and witness Shane Nastoff?

04:33PM 23 A. Yeah, exhibits DEA documents.

04:33PM 24 Q. Okay. And are those generally exhibits that Shane

04:33PM 25 Nastoff testified about when he was here?

04:33PM 1 A. Yes, he did.

04:33PM 2 Q. Okay. And let's look at the next line down, who's that?

04:33PM 3 A. That's special agent -- well, now, Supervisor DEA Mark  
04:33PM 4 Gentile.

04:33PM 5 Q. Okay. He was just here earlier today, right?

04:33PM 6 A. Yeah. Just yeah, this morning and afternoon.

04:33PM 7 Q. Okay. And is that source deactivation form for R.K.  
04:33PM 8 listed as an exhibit between Mark Gentile and the box  
04:33PM 9 entitled Serio investigation?

04:33PM 10 A. Yeah, it's Exhibit 9E-3 we spoke extensively about.

04:33PM 11 Q. Okay. Let's look at the next one. Who's the next law  
04:33PM 12 enforcement witness listed?

04:33PM 13 A. The next one is Special Agent David Leary with the DEA.

04:33PM 14 Q. Okay. And are there a number of exhibits listed here  
04:33PM 15 with respect to the Serio investigation and Dave Leary in  
04:34PM 16 between them?

04:34PM 17 A. There's a number of them, I believe the Exhibit 525 has  
04:34PM 18 not been put into evidence yet, though.

04:34PM 19 Q. Got it.

04:34PM 20 **MR. COOPER:** Ms. Champoux, can we pull up for a  
04:34PM 21 moment Government Exhibit 525 for the witness only?

04:34PM 22 **BY MR. COOPER:**

04:34PM 23 Q. Do you recognize this, sir?

04:34PM 24 A. I certainly do.

04:34PM 25 Q. What do you recognize it to be?

04:34PM 1 A. It's a Google Maps or Earth, and it basically documents  
04:34PM 2 the difference between the Electric Tower and 82 Sycamore,  
04:34PM 3 the Electric Tower being the DEA office at -- in the time of  
04:34PM 4 DEA-6 and then the 82 Sycamore warehouse of Serio.

04:34PM 5 Q. Okay. And so earlier I asked you if you could see the  
04:34PM 6 Electric Tower from 82 Sycamore because I was trying to save  
04:34PM 7 some time. But does Government Exhibit 525 fairly and  
04:34PM 8 accurately depict a Google Maps map of the distance between  
04:34PM 9 those two locations?

04:34PM 10 A. Yes, it does.

04:34PM 11 Q. Okay.

04:34PM 12 **MR. COOPER:** With that foundation, I'd offer 525  
04:34PM 13 into evidence.

04:35PM 14 **MR. MacKAY:** No objection.

04:35PM 15 **THE COURT:** Received without objection.

04:35PM 16 **(GOV Exhibit 525 was received in evidence.)**

04:35PM 17 **MR. COOPER:** Okay. Can we publish that briefly,  
04:35PM 18 Ms. Champoux.

04:35PM 19 **BY MR. COOPER:**

04:35PM 20 Q. Okay. Is that about how far the two locations are from  
04:35PM 21 one another?

04:35PM 22 A. Yeah, as I testified, just a couple blocks.

04:35PM 23 Q. Okay.

04:35PM 24 **MR. COOPER:** Ms. Champoux, can we take that down  
04:35PM 25 please, and pull up 551 again? And we'll work our way again

1 from the left, yep. Thank you.

2 **BY MR. COOPER:**

3 Q. All right. So 525, are we in evidence now?

4 A. Just check. Yes. Those are all those exhibits are in  
5 evidence.

6 Q. All right. Thank you, sir. And the next name that we  
7 can see here, who's that?

8 A. Annette Skinner.

9 Q. Okay. And what do we have listed on the exhibits between  
10 Serio investigation and Annette Skinner?

11 A. Annette Skinner was a -- U.S. Attorney's Office  
12 paralegal, and there are exhibits related to her.

13 Q. Okay.

14 **MR. COOPER:** And you can zoom out of that,  
15 Ms. Champoux.

16 And let's go now, you know, all of the way to the  
17 right. Perfect, ma'am. Thank you.

18 **BY MR. COOPER:**

19 Q. All right. Working again from left to right. The next  
20 two law enforcement witnesses listed Scott Deming and Charlie  
21 Tolias?

22 A. Yeah, Scott Deming is a financial investigator for the  
23 U.S. Attorney's Office, and Charlie Tolias is a special agent  
24 with HSI.

25 Q. Okay. And then are there a number of exhibits listed

1 between the gray box entitled Serio investigation and the  
2 bubble for Scott Deming?

3 A. Yes. Significant number of emails and other exhibits.

4 Q. Okay. And then between Scott Deming and Charlie Tolias,  
5 are there a couple more exhibits listed?

6 A. There's two exhibits listed on there.

7 Q. Got it. Next to them, who do we have?

8 A. Captain Kevin Caffery from the Erie County Sheriff's  
9 Office.

10 Q. Okay. Are there a number of exhibits listed between the  
11 gray box and Captain Kevin Caffery?

12 A. Yes. The 8G, and as well as 407, 407A and B.

13 Q. Okay. Were you present when Captain Kevin Caffery  
14 testified?

15 A. I was.

16 Q. Did all those exhibits come up while he was testifying?

17 A. They did.

18 Q. Okay.

19 **MR. COOPER:** Let's move to the right.

20 We're almost there, move to the right one more.

21 **BY MR. COOPER:**

22 Q. What do we have?

23 A. That is Assistant United States Attorney Timothy Lynch  
24 from the U.S. Attorney's Office.

25 Q. Okay. Is he a witness who testified at this trial?

04:36PM 1 A. He did.

04:37PM 2 Q. Are there a number of exhibits listed between the gray  
04:37PM 3 box entitled Serio investigation and the box for Tim Lynch?

04:37PM 4 A. Yep, there's four exhibits referenced between those.

04:37PM 5 Q. Okay. And finally, now, all the way on the right at the  
04:37PM 6 bottom, who's that?

04:37PM 7 A. That's IRS Special Agent David Turri from the criminal  
04:37PM 8 division.

04:37PM 9 Q. And can you read the exhibit that's listed between Serio  
04:37PM 10 investigation and the box for IRS Special Agent Dave Turri?

04:37PM 11 A. That's Exhibit 22S, the date is July 11th, 2013, it's an  
04:37PM 12 email from Turri to the defendant and a portion of the email  
04:37PM 13 is from the email, drawn from the email is the quote, Mike  
04:37PM 14 Masecchia is an associate and possibly a made member of the  
04:37PM 15 Buffalo LCN family, end quote.

04:37PM 16 Q. Okay.

04:37PM 17 **MR. COOPER:** You can zoom out of that, please,  
04:37PM 18 Ms. Champoux.

04:37PM 19 Judge, I have good news. We're definitely going to  
04:38PM 20 finish the direct today.

04:38PM 21 Can you give me one second to review my notes here?

04:38PM 22 **BY MR. COOPER:**

04:38PM 23 Q. Just a couple of nits to gather up before I sit down,  
04:38PM 24 Special Agent Burns.

04:38PM 25 A. No problem.

04:38PM 1 Q. Have you heard the name Mike Sinatra come up during the  
04:38PM 2 course of this trial?

04:38PM 3 A. Yes, I have.

04:38PM 4 Q. Are you aware of any relation that that person has to  
04:38PM 5 Hot Dog?

04:38PM 6 A. Mike Sinatra?

04:38PM 7 Q. Mike Sinatra.

04:38PM 8 A. Yeah, the relationship -- so, Paul Francoforte, Hot Dog,  
04:38PM 9 his long-time partner, romantic, I guess, common-law wife,  
04:39PM 10 something like that, they're not married, but they've been  
04:39PM 11 together for a long time. Her daughter married Michael  
04:39PM 12 Sinatra a few years back.

04:39PM 13 Q. So is there some familial or semi-familial connection  
04:39PM 14 between Michael Sinatra and Hot Dog?

04:39PM 15 A. Yes, there is.

04:39PM 16 Q. Okay. When we were talking about 552 earlier, the chart  
04:39PM 17 with all the lines on it, remember that?

04:39PM 18 A. Yeah, the connections.

04:39PM 19 Q. Okay.

04:39PM 20 **MR. COOPER:** Ms. Champoux, can you pull up 552 for  
04:39PM 21 one second?

04:39PM 22 **BY MR. COOPER:**

04:39PM 23 Q. When we were laying foundation, you indicated that there  
04:39PM 24 was one that you realized this week was missing from the  
04:39PM 25 chart; is that correct?

04:39PM 1 A. That's one I would have wanted to have on there.

04:39PM 2 Q. Okay. What's the connection that you wish you would have  
04:39PM 3 caught before earlier this week?

04:39PM 4 A. It's Paul Francoforte, Hot Dog, and Frank Bifulco a/k/a  
04:40PM 5 Butchie Bifocals, there's a connection between those two.

04:40PM 6 Q. All right. Let's draw the line just to satisfy you  
04:40PM 7 there. You see that line there?

04:40PM 8 A. That makes me feel better, Mr. Cooper.

04:40PM 9 Q. Okay. And does Government Exhibit 26D, a DARTS  
04:40PM 10 deconfliction entry that shows Paul Francoforte's number  
04:40PM 11 showing up in Butch Bifocal's phone records?

04:40PM 12 A. Right, yeah. The deconfliction notification indicated  
04:40PM 13 that those two were in telephonic communication.

04:40PM 14 Q. Okay.

04:40PM 15 A. Based on the toll records.

04:40PM 16 Q. And did you -- I asked you this before, but did you keep  
04:40PM 17 an index with respect to -- is that an example of what was  
04:40PM 18 kept in your index, that built this chart out?

04:40PM 19 A. Yeah. Exhibits and testimony would just go along as  
04:40PM 20 somebody testified to it. And then additionally, if there  
04:40PM 21 was an exhibit that tied people together, a contact, phone  
04:40PM 22 contact, someone would be in somebody's phone contact would  
04:40PM 23 be an example. So we built it or built it out of the  
04:40PM 24 evidence that was admitted at this trial throughout the --  
04:40PM 25 since August 5th.

04:40PM 1 Q. Okay.

04:40PM 2 **MR. COOPER:** Ms. Champoux, can you take that down,  
04:40PM 3 please?

04:41PM 4 Can I just have one second?

04:41PM 5 No further direct, Judge. Thank you.

04:41PM 6 **THE COURT:** Mr. MacKay.

04:41PM 7

04:41PM 8 **CROSS-EXAMINATION BY MR. MacKAY:**

04:41PM 9 Q. Okay. Good afternoon Special Agent Burns, how are you?

04:41PM 10 A. Tired.

04:41PM 11 Q. You and me both.

04:41PM 12 A. You look tired, Mr. MacKay.

04:41PM 13 Q. You and I have come to know each other fairly well over a  
04:41PM 14 number of months; fair to say?

04:41PM 15 A. Definitely fair to say.

04:41PM 16 Q. And that's because you occupy a unique position that no  
04:41PM 17 other witness in this trial occupies; is that fair to say?

04:41PM 18 A. I mean, I think Marilyn Halliday -- Special Agent  
04:41PM 19 Halliday --

04:41PM 20 Q. Well, the two of you occupy the position I'm talking  
04:41PM 21 about, right?

04:41PM 22 A. Correct.

04:41PM 23 Q. You are what are called summary witnesses, in a fashion  
04:41PM 24 that sit here, you get to see all the evidence, you get to  
04:41PM 25 testify in the trial, correct?

04:42PM

1 A. That's correct.

04:42PM

2 Q. All of other witnesses go through a process called

04:42PM

3 sequestration where they're not allowed to hear any of the

04:42PM

4 other testimony, they come in and give their testimony,

04:42PM

5 correct?

04:42PM

6 A. That's accurate.

04:42PM

7 Q. Okay. So, that's sort of what led you to be here in the

04:42PM

8 seat today?

04:42PM

9 A. That's accurate.

04:42PM

10 Q. Okay. But you're not just here to summarize everything,

04:42PM

11 correct?

04:42PM

12 A. Ummm --

04:42PM

13 Q. Well, let me reword that.

04:42PM

14 You also had some actual fact investigation in this case,

04:42PM

15 correct?

04:42PM

16 A. Oh, yeah. Quite a bit. Search warrants and --

04:42PM

17 Q. Let's start with some of that first.

04:42PM

18 A. Okay.

04:42PM

19 Q. We'll go way back --

04:42PM

20 A. Okay.

04:42PM

21 Q. -- to 2009, 2010, that's about the time you come back to

04:42PM

22 Buffalo, correct?

04:42PM

23 A. January 2008, but I was going back and forth, had some

04:42PM

24 trials in Memphis.

04:42PM

25 Q. Right. So about that time, though, you land in the FBI's

04:42PM 1 office here in Buffalo, and eventually you get involved in an  
04:42PM 2 investigation surrounding Gables, correct?

04:42PM 3 A. That's correct.

04:42PM 4 Q. And that centers on a few different people, one of them  
04:42PM 5 Steve Brucato, correct?

04:42PM 6 A. Correct.

04:42PM 7 Q. And there's Anthony Anastasia, correct?

04:42PM 8 A. Correct.

04:42PM 9 Q. And the other one is Joe Mesi, correct?

04:43PM 10 A. That's correct.

04:43PM 11 Q. And apart from that, too, is there's suspicion that  
04:43PM 12 there's several law enforcement officials that might be  
04:43PM 13 frequenting the bar, number 1, involved in drug use, correct?

04:43PM 14 A. That's accurate.

04:43PM 15 Q. Number 2, passing information, correct?

04:43PM 16 A. That's correct.

04:43PM 17 Q. And to be clear, Joe Bongiovanni's name never came up in  
04:43PM 18 that investigation, correct?

04:43PM 19 A. No, not in that investigation.

04:43PM 20 Q. Now, what happens is, ultimately FBI makes an arrest of  
04:43PM 21 the three individuals that I talked about, correct?

04:43PM 22 A. That's correct.

04:43PM 23 Q. They swoop in on two of them, and they find a third one  
04:43PM 24 doing cocaine at one of the houses, correct?

04:43PM 25 A. There's -- they were arrested at separate times. But the

04:43PM 1 one individual starts cooperating, and then the third  
04:43PM 2 individual, Mr. Mesi, is doing cocaine at Mr. Brucato's  
04:43PM 3 house.

04:43PM 4 Q. Okay. And so just so the jury understands, we use the  
04:43PM 5 term "arrest." FBI swoops in, and they arrest them in the  
04:43PM 6 sense they put them in handcuffs and detain them, correct?

04:43PM 7 A. Yeah. "Detain" is probably a better -- arrest/detain.

04:44PM 8 Q. Yeah. They're detained. But they're not arrested in the  
04:44PM 9 sense that they go down to jail that night and charges are  
04:44PM 10 filed, correct?

04:44PM 11 A. Right. It would be detained. Right. An arrest -- it  
04:44PM 12 depends what you want to talk about, but you're right, an  
04:44PM 13 arrest would involve subsequent to the arrest processing at  
04:44PM 14 the U.S. Marshal's or the Erie County --

04:44PM 15 Q. Right. So long story short, these three individuals all  
04:44PM 16 leave the scene that day, correct?

04:44PM 17 A. Right. And, again, they weren't all the same day.

04:44PM 18 Q. Scene of the arrest, I'll say.

04:44PM 19 A. Yeah, that's -- that's more accurate.

04:44PM 20 Q. They're back into the community after this law  
04:44PM 21 enforcement action?

04:44PM 22 A. That's correct.

04:44PM 23 Q. Joe Mesi becomes an FBI cooperator, correct?

04:44PM 24 A. He does.

04:44PM 25 Q. Anthony Anastasia becomes a cooperator, but kind of only

1 for a little while, correct?

2 A. Yeah, he didn't -- he fell off the program.

3 Q. Okay. Now the sort of catch-and-release scenario, that's

4 relatively common in federal law enforcement investigations?

5 A. It can be. It's situational depending on the target and

6 are they under indictment. There's a lot of factors, but

7 that does happen --

8 Q. Right.

9 A. -- from time to time when you're --

10 Q. It's not uncommon to release people who are arrested back

11 into the community, and then potentially follow up later with

12 charges, correct?

13 A. Follow up later with charges, and make them a cooperator,

14 yeah, that's very common.

15 Q. Or perhaps never charge them, correct?

16 A. Yeah, that happens. Certainly.

17 Q. Okay. And when you're doing these sort of arrests, you

18 know, this is not like a knock on the door and, hi, how are

19 you doing; fair to say?

20 A. These particular ones? That wasn't -- I was only present

21 for the Mesi one --

22 Q. Okay.

23 A. -- so I can't say exactly how the other ones went down.

24 Q. Fair to say, though, the usual course of business is, you

25 know, a number of law enforcement officials descend on a

04:45PM

1 house, correct?

04:45PM

2 A. Yeah, it can be.

04:45PM

3 Q. And in your experience, executing both search warrants

04:45PM

4 and arrest warrants in these sort of scenarios, neighbors

04:45PM

5 often take an interest in what's going on, correct?

04:45PM

6 A. Yeah, correct.

04:45PM

7 Q. You often have to keep them away from a scene, correct?

04:45PM

8 A. Sometimes.

04:45PM

9 Q. Obviously, the neighbors know, you know, who their

04:45PM

10 neighbors are at the house, correct?

04:45PM

11 A. That's correct.

04:45PM

12 Q. And specifically, with Anthony Anastasia and Brucato,

04:46PM

13 they're known to work at the neighborhood bar in North

04:46PM

14 Buffalo, Gables, correct?

04:46PM

15 A. Yeah, they both were long-time bartenders, managers at

04:46PM

16 Gables.

04:46PM

17 Q. Yeah. And Gables, fair to say, is a neighborhood bar in

04:46PM

18 the North Buffalo area?

04:46PM

19 A. Yeah, it was, yes.

04:46PM

20 Q. Yeah, at one point it was. And, so, after the arrest,

04:46PM

21 both of these individuals go back to the bartending business

04:46PM

22 at Gables, correct?

04:46PM

23 A. Yes. Yeah. Brucato, definitely. Anastasia, I'm not as

04:46PM

24 familiar, but yeah, he did.

04:46PM

25 Q. Okay. Now at that same point in time, you knew Mike

04:46PM 1 Masecchia to be a general resident of the North Buffalo area,  
04:46PM 2 correct?

04:46PM 3 A. Yeah, he was definitely a North Buffalo guy.

04:46PM 4 Q. Yeah, I mean, he -- at the time he maintained a residence  
04:46PM 5 on Colvin Boulevard, correct?

04:46PM 6 A. I don't want to commit to being at that time, but he was  
04:46PM 7 a longtime resident. He might have been on Colvin at that  
04:47PM 8 time.

04:47PM 9 Q. Yeah, I mean, fair to say he had a reputation for  
04:47PM 10 patronizing the bars in North Buffalo?

04:47PM 11 A. Definitely.

04:47PM 12 Q. Grew up in that neighborhood, correct?

04:47PM 13 A. Mike Masecchia, yes.

04:47PM 14 Q. Yes. Okay. Now, fast forward a little bit, just so we  
04:47PM 15 can clarify, this is entirely an FBI operation, correct?

04:47PM 16 A. At that point, yes.

04:47PM 17 Q. Right. So up to the arrest and after for a while,  
04:47PM 18 there's no DEA involvement, correct?

04:47PM 19 A. No, none at all.

04:47PM 20 Q. Because this is an investigation that originally began  
04:47PM 21 with FBI, correct?

04:47PM 22 A. Safe Streets Task Force and, yeah, myself on the public  
04:47PM 23 corruption side.

04:47PM 24 Q. Drugs and public corruption, correct?

04:47PM 25 A. Correct.

04:47PM 1 Q. Okay. Fast forward a little bit, and come to learn DEA  
04:47PM 2 separately arrests Anthony Anastasia, correct?

04:47PM 3 A. That's correct.

04:47PM 4 Q. And it's about the 2011 timeframe?

04:47PM 5 A. Yeah, because we go -- '10, 2010 was our investigative --  
04:47PM 6 and the arrest you're referring to, and then the 2011 was  
04:47PM 7 Shane Nastoff.

04:47PM 8 Q. And at that time in 2011, it's because Anthony Anastasia  
04:48PM 9 is drug dealing, correct?

04:48PM 10 A. Yes.

04:48PM 11 Q. And he's out in the community, correct?

04:48PM 12 A. Right. He's back doing that, correct.

04:48PM 13 Q. As you were starting to say, he's back out doing what  
04:48PM 14 he's doing before?

04:48PM 15 A. Correct.

04:48PM 16 Q. And DEA makes an arrest of him, correct?

04:48PM 17 A. That's correct.

04:48PM 18 Q. And you understood Shane Nastoff to be the agent who  
04:48PM 19 arrests him, correct?

04:48PM 20 A. Yeah. He utilized a source, and --

04:48PM 21 Q. Okay.

04:48PM 22 A. -- ultimately arrests and detains him I think.

04:48PM 23 Q. Right. Yeah. And just so remind the source, we may have  
04:48PM 24 heard him before, is Richard Himbury, correct?

04:48PM 25 A. That's correct.

04:48PM 1 Q. Now ultimately that creates problems with FBI because  
04:48PM 2 there's a little bit of deconfliction that has to be dealt  
04:48PM 3 with, correct?

04:48PM 4 A. I don't say problem, I mean, it happens all the time  
04:48PM 5 where another agency or another investigative or police  
04:48PM 6 department or somebody has, you know, I just don't like the  
04:48PM 7 word "problem," but yes, it necessitates a deconfliction and  
04:48PM 8 kind of who's -- what are we gonna charge this person with,  
04:48PM 9 what's your purpose of the investigation. Deconfliction.

04:48PM 10 Q. Well, and when I use the word "problem" here, one of the  
04:48PM 11 issues that arose was that when DEA and FBI deconflicted,  
04:49PM 12 there were concerns about whether the new DEA investigation  
04:49PM 13 would compromise the FBI CI, correct?

04:49PM 14 A. Absolutely.

04:49PM 15 Q. And that CI was Joe Mesi, correct?

04:49PM 16 A. That's correct, yes.

04:49PM 17 Q. So deconfliction is done to make sure these  
04:49PM 18 investigations are completely separated, correct?

04:49PM 19 A. That's correct.

04:49PM 20 Q. And that DEA doesn't learn about Joe Mesi, correct?

04:49PM 21 A. I wasn't present for the deconfliction, so I don't know  
04:49PM 22 who knew what. I wasn't at that meeting.

04:49PM 23 Q. But to your understanding, the intention was to keep  
04:49PM 24 these two investigations entirely separate, correct?

04:49PM 25 A. I wouldn't feel comfortable testifying because I wasn't

04:49PM 1 at that deconfliction meeting, so I don't know what was, you  
04:49PM 2 know, I kind of was working with Mesi and Safe Streets was  
04:49PM 3 involved in that deconfliction.

04:49PM 4 Q. Ultimately there is a deconfliction that takes place,  
04:49PM 5 correct?

04:49PM 6 A. Right, and I'm not present for that.

04:49PM 7 Q. Yeah. And Dan Bradley the FBI --

04:49PM 8 A. Yes.

04:49PM 9 Q. -- is part of it?

04:49PM 10 A. That's correct.

04:49PM 11 Q. And did you understand Shane Nastoff to be part of that  
04:49PM 12 from the DEA end?

04:49PM 13 A. Yes.

04:50PM 14 Q. And then it's supervised in some fashion by the members  
04:50PM 15 of the U.S. Attorney's Office?

04:50PM 16 A. Yeah, I believe based on the document I reviewed, AUSA  
04:50PM 17 Joseph Guerra was part of that.

04:50PM 18 Q. Okay. And, you know, your understanding because of the  
04:50PM 19 way the investigation ultimately proceeded, the decision was  
04:50PM 20 made we can't charge -- DEA can't charge Anastasia based on  
04:50PM 21 anything back in 2011 because that could implicate the FBI's  
04:50PM 22 investigation, correct?

04:50PM 23 A. I wasn't privy. I would believe that if Anastasia  
04:50PM 24 pleads, Anastasia had, you know, wanted -- if they had to  
04:50PM 25 indict him and bring him to trial, I suspect they would have

1 brought that evidence from the previous one to make the  
2 strongest case.

3 Q. Okay. But ultimately, Brucato's not charged -- I'm  
4 sorry, Anastasia is not charged for what occurs in 2011 with  
5 the FBI investigation, correct?

6 A. I haven't seen his plea agreement, but I think that's  
7 accurate.

8 Q. Right. I mean, do you have any reason to disagree with  
9 me that he's ultimately charged for what happens that the DEA  
10 arrest him for, correct?

11 A. I just can't without seeing the charge of what he pled to  
12 and understanding what was the relevant conduct was, what was  
13 included in there.

14 Q. Sure. And we can move on.

15 A. Okay.

16 Q. But as you sit here today, you had no direct knowledge  
17 that any names of any FBI CIs were shared with DEA, correct?

18 A. I had no knowledge.

19 Q. I mean, because you were weren't part of the  
20 deconfliction meeting between DEA and FBI, correct?

21 A. That's correct.

22 Q. And, you know, whatever trickled down to you or however  
23 you know it, you have no knowledge that FBI passed the name  
24 of their CI to DEA, correct?

25 A. Repeat that again? I'm sorry.

04:51PM 1 Q. It might have been a bad question.

04:51PM 2 To your knowledge, you never know whether DEA learned  
04:51PM 3 about Joe Mesi being an informant, correct?

04:51PM 4 A. They may have, based on some other -- or, like, Dave  
04:51PM 5 Turri would have been aware. Mesi and --

04:51PM 6 Q. I'm not asking, like, who might have been aware of what.  
04:51PM 7 But as far as you know, as you sit here today, I mean, you  
04:51PM 8 weren't present with any of the deconfliction --

04:52PM 9 A. I wasn't.

04:52PM 10 Q. -- meetings. Okay.

04:52PM 11 And it happened all through the United States Attorney's  
04:52PM 12 Office, correct?

04:52PM 13 A. I can't speak to that. I don't know the communication  
04:52PM 14 between Dan Bradley -- Special Agent Dan Bradley and Special  
04:52PM 15 Agent Shane Nastoff.

04:52PM 16 Q. And then from there, you have no specific knowledge of  
04:52PM 17 anything that occurs on the DEA side of things, correct?

04:52PM 18 A. Other than what I've heard through this trial.

04:52PM 19 Q. Right. I mean, so as you're going forward in the years  
04:52PM 20 2011, 2012, '13, '14, you don't know anything about what's  
04:52PM 21 going on about the DEA investigation, correct?

04:52PM 22 A. I do not.

04:52PM 23 Q. Okay. And just a reminder, throughout all that time,  
04:52PM 24 Steve Brucato is still out in the community uncharged with a  
04:52PM 25 crime, correct?

04:52PM 1 A. I wasn't active in that part of the investigation, I  
04:52PM 2 mean, I -- I believe he was not charged, I just can't say  
04:52PM 3 definitively whether.

04:52PM 4 Q. Do you understand that Steve Brucato was never ultimately  
04:52PM 5 charged in relation?

04:52PM 6 A. That's what I believe, yeah, I understand that.

04:53PM 7 Q. Okay. You participate in the Pharaoh's search in 2019,  
04:53PM 8 correct?

04:53PM 9 A. In December, yes.

04:53PM 10 Q. Yeah. So that's after Joseph Bongiovanni charged,  
04:53PM 11 correct?

04:53PM 12 A. Yes.

04:53PM 13 Q. And part of your duties at that search were to collect  
04:53PM 14 evidence, correct?

04:53PM 15 A. Mostly, I interviewed the manager, John Ermin a/k/a Tommy  
04:53PM 16 O, that -- my predominant job was to interview that manager.

04:53PM 17 Q. Okay. Well, so in some capacity, though, you came to  
04:53PM 18 learn or you did it yourself that DVRs were recovered from  
04:53PM 19 Pharaoh's, correct?

04:53PM 20 A. Yes. I was aware that those DVRs were recovered, and  
04:53PM 21 they had been reviewed. But specifically that day, my job  
04:53PM 22 that day was to --

04:53PM 23 Q. And you found they were working insofar as they captured  
04:53PM 24 the footage, correct?

04:53PM 25 A. Yes, they captured the footage that I discussed on my

04:54PM 1 direct testimony.

04:54PM 2 Q. Okay. So, at least when you were there in December of  
04:54PM 3 2019, it appears there were working cameras of Pharaoh's  
04:54PM 4 going back at least, say, seven weeks?

04:54PM 5 A. Well, one of the DVRs went back seven weeks, and the  
04:54PM 6 other two went back two weeks.

04:54PM 7 Q. Okay.

04:54PM 8 A. And they had a bunch of cameras attached to them.

04:54PM 9 Q. Yeah, I mean, so you observed that there were a number of  
04:54PM 10 cameras throughout the facility, correct?

04:54PM 11 A. I didn't personally observe, because I was really focused  
04:54PM 12 on my interview. But, yeah, in the reviewing the DVR, the  
04:54PM 13 investigative team is aware that there were multiple cameras.

04:54PM 14 Q. And you can see it based on, like, the number --

04:54PM 15 A. Yeah.

04:54PM 16 Q. -- of different cameras that shows in the DVR, correct?

04:54PM 17 A. Yeah, that's accurate.

04:54PM 18 **MR. MacKAY:** Judge, now might be a got time to stop.

04:54PM 19 **THE COURT:** So let's do it.

04:54PM 20 And, folks, I want to -- don't jump up quite yet.

04:54PM 21 Let's talk a minute about next week.

04:54PM 22 So, there's still a chance that we're going to be on  
04:54PM 23 track for what I said earlier, even with the delays that we  
04:54PM 24 had. So I'd like you to come in at 8:30 on Monday and be  
04:54PM 25 prepared to stay until 5:30. And be prepared to do the same

1 thing on Tuesday. It may not be necessary, but it may. And  
2 if we're close, because it's, like, dominoes right? There's  
3 so many moving parts that if we go past a certain point, we're  
4 gonna -- the delays are gonna be more substantial.

5 So I want to try to get this done if we can so that  
6 the lawyers can sum up to you, as I said before, on Tuesday.

7 If that's impossible, it's impossible, and we'll deal  
8 with it. But it will just make things go a whole lot easier  
9 and more streamlined if we can.

10 So the long and the short of it is come in at 8:30.  
11 In fact, come in earlier. You know, today we planned on 8:30  
12 and we couldn't because of traffic, so try to come in earlier  
13 so that you're here waiting. I'll be here earlier, I promise.  
14 And we'll try to start right at 8:30. And be prepared to go  
15 to 5:30, maybe even with a short lunch, again, depending on  
16 how things go, maybe the same thing on Tuesday.

17 And then Wednesday, we're definitely starting at  
18 8:30. Although, probably won't have to go past 5:00, but  
19 definitely starting at 8:30. Okay?

20 And because we're in the home stretch now, please  
21 remember my instructions, and -- don't blow it now, folks.  
22 Don't use tools of technology to communicate with anyone about  
23 the case. Don't communicate with anyone about the case in any  
24 way at all.

25 At the football game on Sunday night when you folks

are at your football parties watching the Bills and the Ravens, you know, don't talk about this case. People are going to ask you, don't talk to them about it. Don't try to learn anything about this case outside the courtroom either with tools of technology, or books, or maps, or anything.

And don't read, watch, or listen to any news coverage of the case while the trial is still in progress. Don't make up your mind until you start deliberating. Okay?

Everybody have a wonderful weekend. We will see you on Monday morning at 8:30. Get a good night's sleep on Sunday night. Drive carefully.

(Jury excused at 4:57 p.m.)

**THE COURT:** Okay. Anything?

**MR. COOPER:** Just one thing, Judge. The blow-up of 8A-6 that we had Special Agent Burns mark off, I think for record purposes for any potential matter beyond the trial, we should mark that and preserve it.

**THE COURT:** Oh, I do, too.

**MR. COOPER:** Okay. So it's -- I would suggest to the Court so that it's distinguishable from 8A-6, which is also available in electronic, is to mark it 8A-6.1, like, period 1. Are you good with that?

**MR. MacKAY:** I think that's good, Judge. We've used that notation already.

**THE COURT:** We have?

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**MR. MacKAY:** No, I meant generally.

**THE COURT:** Oh, okay. Okay. So then fine, yes.

**MR. COOPER:** Okay. Great. So we'll amend that, I'll do it with Parker after, we'll amend the exhibit sticker.

**THE COURT:** Okay, good.

Anything from the defense?

**MR. SINGER:** I actually have one thing.

So on Agent Gentile's -- I think it was re-redirect, Mr. Tripi got up and presented him a handwriting, I guess, exemplar of trying to draw out Agent Gentile's signature.

**THE COURT:** Um-hum.

**MR. SINGER:** I'd like a copy of that so I can present that to my expert.

**MR. TRIPI:** Oh, sure. I have to find that.

**THE COURT:** Yeah, absolutely. And we should preserve that, too.

**MR. TRIPI:** I'll rip the page out.

**THE COURT:** That was just shown to him, not the jury?

**MR. TRIPI:** Yeah, it was just shown to him.

**THE COURT:** Find it, Mr. Tripi.

**MR. TRIPI:** What's that?

**THE COURT:** I said find it.

**MR. TRIPI:** I'm looking, Judge, I'm looking.

**MR. COOPER:** Oh. It's already ripped out.

**MR. TRIPI:** No, that's not it. I knew it was on a

04:59PM 1 half sheet of paper.

04:59PM 2 **THE COURT:** Are we ready? Okay. Great.

04:59PM 3 Okay. Anything else folks? See you at 11:00

04:59PM 4 tomorrow. 11:00 tomorrow.

04:59PM 5 Are you going to be here, Mr. Bongiovanni, tomorrow?

04:59PM 6 **THE DEFENDANT:** Do you want me to?

04:59PM 7 **THE COURT:** That is up to you and your lawyers. It's  
04:59PM 8 the charge conference, so that is up to you and your lawyers.

04:59PM 9 **THE DEFENDANT:** I don't want to -- I want to make  
04:59PM 10 sure I'm good with you.

05:00PM 11 **THE COURT:** No, no, no, you're always fine with me.  
05:00PM 12 But you guys can make that call.

05:00PM 13 **MR. SINGER:** Yeah, we talked to Mr. Bongiovanni, and  
05:00PM 14 since it's purely a legal discussion and it may only last  
05:00PM 15 frankly a half hour or less, we're gonna waive his appearance.

05:00PM 16 **THE COURT:** Your lips to God's ears.

05:00PM 17 **MR. SINGER:** I'm not making any promises, Judge.

05:00PM 18 **THE COURT:** I know, I know, I know.

05:00PM 19 Okay, thanks. See you tomorrow morning.

05:00PM 20 **MR. TRIPI:** Judge, I handed up the note.

05:00PM 21 **THE COURT:** Yes.

05:00PM 22 **MR. TRIPI:** Maybe Ms. Demma can be kind enough to  
05:00PM 23 make a couple copies.

05:00PM 24 **THE COURT:** That's what she just said she's going to  
05:00PM 25 do.

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SEPTEMBER 26, 2024

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